

October 10, 2006



**TRANSCRIPT**  
**October 10, 2006**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

George Leventhal, President  
Phil Andrews  
Nancy Floreen  
Thomas Perez

Marilyn J. Praisner, Vice President  
Howard Denis  
Michael Knapp  
Steven A. Silverman  
Michael Subin

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1 Council President Leventhal

2 Okay we have a forum and we're going to rise for a moment of silence.

3 Thank you very much. And we have Councilmember Praisner going to present a  
4 proclamation recognizing White Cane Safety Day.

5  
6 Councilmember Praisner,

7 Thank you. It's always my pleasure to be able to present this proclamation and my  
8 friend Debbie Brown is back this year, this time with Tom Bickford, we're very happy to  
9 have you both here. I'd like to read this proclamation. Whereas on Sunday, October  
10 5th, 2006 the nation will observe National White Cane Safety Day. And whereas the  
11 purpose of White Cane Safety Day is to raise public awareness of the White Cane as a  
12 symbol of independence and freedom for blind persons and to promote public  
13 awareness of the blind as equal and productive citizens of our country. And whereas  
14 during this time the public is reminded that persons carrying a white cane or using a  
15 guide dog are legally blind, but have equal rights under the law to housing, lodging,  
16 amusement and public transportation and whereas motorists should remember that the  
17 law requires drivers to exercise particular care when approaching or in the proximity of  
18 blind persons. And whereas it is also appropriate at this time to remind employers that  
19 when blind persons receive proper instruction and genuine opportunity, they can  
20 compete on equal terms with sighted individuals and are in fact employed within the  
21 broad spectrum of labor and the professions. Now therefore be it resolved that the  
22 Montgomery County Council hereby proclaims Sunday, October 15, 2006 White Cane  
23 Safety Day in Montgomery County and commends the efforts of the National Federation  
24 of the Blind in this it's 65<sup>th</sup> Year. Presented on the tenth day of October in the year 2006  
25 and it's signed by our Council President George Leventhal, and I will hold up the  
26 proclamation, Tom if you could hold it as well a little bit and Debbie will take a  
27 photograph and then if both of you would like to say something it's certainly, you're  
28 invited to do so. The microphones are ready so you want to hold that, fine, great. The  
29 pictures are done, I think.

30  
31 Debbie Brown,

32 Okay, alright. Thank you. Okay we did, this year we have something new to  
33 demonstrate. The National Federation of the Blind has something called the KNFE  
34 Reader, am I on here?

35  
36 Councilmember Praisner,

37 Yep

38  
39 Debbie Brown,

40 It is designed to help blind people to read print because that's one of the things you go  
41 into a room and somebody hands you this piece of paper that you can't read, and this is  
42 a new product and of course being technology it works right and once in a while if the  
43 moon is in the wrong faze or something it doesn't. We want to see if we can get started  
44 on reading this proclamation here.



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1 Councilmember Praisner,  
2 Oh, okay.  
3  
4 Debbie Brown,  
5 Now is this, is this is white on white paper?  
6  
7 Councilmember Praisner,  
8 It's on white paper.  
9  
10 Debbie Brown,  
11 Well that's a good thing.  
12  
13 Councilmember Praisner,  
14 And it's got a blue background. It's an off-white paper.  
15  
16 Debbie Brown,  
17 Okay.  
18  
19 Councilmember Praisner,  
20 No the border is blue.  
21  
22 Debbie Brown,  
23 So the paper is white?  
24  
25 Councilmember Praisner,  
26 Yes.  
27  
28 Debbie Brown,  
29 That might help, that's let's see if we can do this now, you know.  
30  
31 Councilmember Praisner,  
32 Okay.  
33  
34 Debbie Brown,  
35 Okay. Right we're not straight in and it is going to tell us if the view is right, maybe  
36  
37 Councilmember Praisner,  
38 Okay.  
39  
40 Tom Bickford,  
41 Camera's on. Okay here's the deal.  
42  
43 Debbie Brown,  
44 Give me that thing.  
45



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1 Tom Bickford,  
2 It's best if I lay it flat.

3  
4 Councilmember Praisner,  
5 Okay. It's flat.

6  
7 Tom Bickford,  
8 Big sheet of paper. I don't guarantee a lot.

9  
10 Councilmember Praisner,  
11 Okay, well let's see if technology will work for us.

12  
13 Machine Speaker,  
14 Field of view report. Top right and bottom edges are visible. 37 percent field.

15  
16 Debbie Brown,  
17 Okay when did you call that thing a beep. After the text is done.

18  
19 Machine Speaker,  
20 Field of view report. Top right and bottom edges are visible. 27 percent field

21  
22 Tom Bickford,  
23 May need to come down.

24  
25 Machine Speaker,  
26 Field of view report. Top right and bottom edges are visible. 40 percent field.

27  
28 Tom Bickford,  
29 Getting better.

30  
31 Machine Speaker,  
32 Field of view report. Top right and bottom edges are visible. 46 percent field

33  
34 Machine Speaker,  
35 Field of view report. Top and right edges are visible. 48 percent field.

36  
37 Debbie Brown,  
38 That's better

39  
40 Councilmember Praisner,  
41 Coming down.

42  
43 Machine Speaker,  
44 Field of view report. Top and right edges are visible. 50 percent field.

45



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1 Tom Bickford,  
2 Let's try it there.  
3  
4 Debbie Brown,  
5 It's 50 percent.  
6  
7 Tom Bickford,  
8 It has taken a picture of the page below it, now it will take a half a minute or so.  
9  
10 Machine Speaker,  
11 Taking picture.  
12  
13 Debbie Brown,  
14 Fortunately we had it right side up, but even if it had been upside down if it was going to  
15 read it, it would read it. Like it's upside down and read it.  
16  
17 Tom Bickford,  
18 I haven't tried that with many mystery printed objects.  
19  
20 Debbie Brown,  
21 Taking a while to process.  
22  
23 Tom Bickford,  
24 The machine was worked on as a joint project of Raymond Kurswile who is pretty well  
25 known in the music field for inventing musical synthesizers.  
26  
27 Machine Speaker,  
28 Camera zero degree  
29  
30 Tom Bickford,  
31 I've got it straight on.  
32  
33 Machine Speaker,  
34 Processing image, please wait.  
35  
36 Tom Bickford,  
37 But also he has worked with the National Federation of the Blind on  
38  
39 Machine Speaker,  
40 No text found.  
41  
42 Tom Bickford,  
43 Well off to a bad start.  
44  
45 Councilmember Praisner,



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1 Oh, well we'll try again next year. It may be its too large. In that case what I'll do next  
2 year is make sure you get a smaller version.

3  
4 Debbie Brown,

5 Let's see if we have 8 ½ X 11 paper and we do have a hand out, we have some books,  
6 there's supposed to be nine of these in here but I

7  
8 Councilmember Praisner,

9 I've got two four six so maybe there are more, but that's okay we'll share. We can,  
10 we're good at sharing, we'll share. Thank you very much for

11  
12 Council President Leventhal,

13 Thank you Mrs. Praisner and thank you to our community members. We will now ask  
14 Miss. Lauer to let us know if there are any agenda or calendar changes.

15  
16 Ms. Lauer,

17 Yes. The agenda for today we have on the consent calendar the first item is being  
18 deferred. It was the introduction of the WSSC spending control limits and that will come  
19 back at a later date. We have added an introduction of a resolution to request  
20 development of a program to provide trees for Montgomery County homeowners  
21 sponsored by Councilmember Subin, action is tentatively for next Tuesday. At the end  
22 of the morning at 11:45 we are having a briefing on the Birchmere project followed by a  
23 proposed closed session that would to consider a matter on a proposal for a business to  
24 locate, expand or remain in the state and the topic is the Birchmere Project. There is a  
25 calendar change for this week, the joint MFP/HHS that was scheduled for Thursday  
26 afternoon October 12<sup>th</sup> has been moved to next Tuesday afternoon October 17<sup>th</sup>. Thank  
27 You.

28  
29 Council President Leventhal,

30 Great, Thank you Ms. Lauer. Are there minutes for approval?

31  
32  
33 Council Clerk,

34 The minutes of September 26th for approval.

35  
36 Councilmember Andrews,

37 Second.

38  
39 Council President Leventhal,

40 Mr. Andrews has moved and Mrs. Praisner has seconded the approval of the minutes of  
41 September 26<sup>th</sup>, those in favor will signify by raising their hands. It's unanimous among  
42 those present.



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1 We are going to turn now to the consent calendar and I need a motion to adopt the  
2 consent calendar and Mrs. Praisner has moved and Mr. Knapp has seconded adoption  
3 of the consent calendar. Vice President Praisner.

4  
5 Councilmember Praisner,

6 Yes, I wanted to comment on item D which is the introduction of the resolution to  
7 approve the franchise agreement for use of public right of way by Verizon  
8 communication. The public hearing for that has been scheduled on October 31st during  
9 the day. I know that may be an inconvenience to individuals but I was torn between  
10 what I know is the public's interest to celebrate Halloween with children and be here in  
11 the evening for a hearing so on my request the County Council President has agreed  
12 that we will allow a few more folks to testify in that afternoon time period then we  
13 normally permit in the afternoon when we generally limit the testimony to five individuals  
14 and I also want to express to folks that written testimony without coming to testify is just  
15 as, carries the same amount of weight and consideration by our staff and the council as  
16 does participation in the public hearing. You don't have to participate in the public  
17 hearing to give us your testimony and your comments and I see Jane Lawton, the cable  
18 administrator in the room. The request that I have which is related to that is related to  
19 the fact that the county executive has already held his hearing on the issue. I would  
20 appreciate if you could convey through Sonya to the council any testimony that came in  
21 through that hearing process. Thank you. Thank you Mr. President.

22  
23 Council President Leventhal,  
24 Thank you, Mrs. Praisner. Mr. Silverman

25  
26 Councilman Silverman,

27 Thanks, also in connection with the Verizon proposal, I have a request of staff and I  
28 assume this is the way it would play out in committee, but you know that is up to the  
29 chair. At least for me it would be helpful to have at some point some highlights of the  
30 comparisons between this franchise agreement and the existing Comcast agreement for  
31 the franchise impaired I'd like to understand quite frankly how level the playing field is.  
32 There's an extraordinary interest I think on the part of the public to see another  
33 franchise awarded but based on the conversations that I had for several months while  
34 this whole issue was pending with you know Joe Voter out there, they in many cases  
35 have no idea what some of the issues are particularly with the issue of requiring  
36 customer service standards for Verizon that are comparable to what Comcast goes  
37 through so I'm particularly interested in understanding the comparisons on customer  
38 service between what this franchise agreement will require and what Comcast is  
39 required to do.

40  
41 Councilmember Praisner,

42 Customer service, as you know, is an issue of significant interest to the council across  
43 the board and I think last week Nancy Floreen asked the same question about parallel  
44 looking and we will not just look at the Comcast franchise but also the Star Power or  
45 RCN franchise.





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1  
2 Councilman Silverman,  
3 Everybody, both of them. Yeah. Thank you.

4  
5 Council President Leventhal,  
6 Okay, there are no further comments or questions on the consent calendar. Those in  
7 favor of it's adoption will signify by raising their hands. It is unanimous among those  
8 present. We are now in District Council session and we have before us the hearing  
9 examiners report and recommendation on application number G-850.  
10 The applicant is Lot 31 Associates LLC. We have a report from the hearing examiner.

11  
12 Hearing Examiner Grossman,  
13 Good Morning, Mr. President.

14  
15 Council President Leventhal,  
16 Good Morning Mr. Grossman.

17  
18 Mr. Grossman,  
19 I might mention that there are a couple of technical corrections on the proposed  
20 resolution. The first is the addition of the word, "approximately" before the mention of  
21 the 1138 public parking spaces and the

22  
23 Councilmember Praisner  
24 But, Martin, where are you,?

25  
26 Mr. Grossman,  
27 Yes, I have actually brought Pages 1 and 21 and then 22. Three pages and I have  
28 copies . Mr. Zyontz will hand them up.

29  
30 Councilmember Praisner,  
31 11, 21 and 22.

32  
33 Mr. Grossman,  
34 No, 1 page 1

35  
36 Councilmember Praisner,  
37 Oh it's throughout to correct 1138?

38  
39 Mr. Grossman,  
40 Yeah, just to improve the word approximately before 1138 on page 1 and 21, and then  
41 on page 22, applicant's counsel brought to my attention last night that one of the tax  
42 account numbers was incorrect and should be removed. So on page 22 I've added two  
43 sentences to the proposed resolution which say, "The reproducible original and copies  
44 of the development plan should be corrected by removing any reference to the incorrect  
45 tax account number 0700430361. The correct tax account number 0700430190 should



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1 remain on the development plan. I think that will handle the problem, I have personally  
2 checked the Maryland tax records and take official notice of the fact that that correction  
3 is appropriate.

4  
5 Council President Leventhal,  
6 Okay, please precede Mr. Grossman.

7  
8 Mr. Grossman,  
9 This is a major project in downtown Bethesda involving parking lots 31 and 31a at the  
10 corners of Bethesda Avenue and Woodmont Avenue and will result in the construction  
11 of two buildings providing up to 250 residential units in 40,000 square feet of  
12 commercial space. This also includes up to 35 as I recall work force units and 12.5  
13 percent MPDU's. So it's a project that I've recommended as has the planning board  
14 and technical staff. My only two concerns were the traffic problems that are undoubtedly  
15 going to occur in construction, I don't think that's a zoning issue and of course the  
16 council has approved the abandonment proceedings on August 1 which and it did spell  
17 out some steps to alleviate that concern and the other is that the undisputed evidence is  
18 that there will be some slowing down of traffic at the intersection of Bethesda and  
19 Woodmont Avenue when the project is complete, however because of the attention to  
20 making the intersection more pedestrian friendly and of course the technical staff, The  
21 Department of Public Works and Transportation, the planning board are all looking at  
22 this issue in ways to mitigate the traffic problems that may occur as a result, there is a  
23 balancing between making the intersection more pedestrian friendly and allowing traffic  
24 to flow freely, so I believe that that will be appropriately looked at at the site plan  
25 subdivision review, and so I recommend the approval of the resolution as modified.

26  
27 Council President Leventhal,  
28 Mrs. Praisner.

29  
30 Councilmember Praisner,  
31 I think the only issue for me and it is not a substantive issue to this actually when I read  
32 through the packet, is the issue that has been raised in previous cases associated with  
33 the ARC and a government project. I think it is a generic subject that we need to look at  
34 as a council in what is the appropriate role in relationship as was noted in previous  
35 cases. I don't think the council when we discussed and created this process anticipated  
36 a public project or public property being part of the equation in all of this. There's no  
37 suggestion of inappropriate behavior but I think we need to talk about ways to consider,  
38 at least discuss that forthright in an open kind of discussion without any cases in front of  
39 us. Are you testing our eyesight, Jeff?

40  
41 Jeff Zyontz,  
42 I thought I have a sign ordinance issue today?

43  
44 Councilmember Praisner,  
45 Okay. I think that is a separate issue but I would move approval of the resolution.



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1  
2 Hearing Examiner Grossman,  
3 But it has been raised, It was raised at the hearing as well.

4  
5 Councilmember Praisner,  
6 Right

7  
8 Hearing Examiner Grossman,  
9 And so and disposed of there too.

10  
11 Council President Leventhal,  
12 Is there a second for Mrs. Praisner's motion? Mr. Perez has seconded the motion to  
13 approve the report of the hearing examiner. Is there further discussion on the motion?  
14 If there is no further discussion the clerk will call the roll.

15  
16 Council Clerk  
17 Ms. Floreen?.

18  
19 Councilmember Floreen  
20 Yes.

21  
22 Council Clerk  
23 Mr. Silverman?

24  
25 Councilmember Silverman  
26 Yes.

27  
28 Council Clerk  
29 Mr. Knapp?

30  
31 Councilmember Knapp  
32 Yes.

33  
34 Council Clerk  
35 Mr. Andrews?

36  
37 Councilmember Andrews  
38 Yes.

39  
40 Council Clerk  
41 Mr. Perez?

42  
43 Councilmember Perez  
44 Yes.



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1 Council Clerk  
2 Mrs. Praisner?

3  
4 Councilmember Praisner  
5 Yes.

6  
7 Council Clerk  
8 Mr. Leventhal?

9  
10 Council President Leventhal  
11 Yes. The hearing examiner's report and the accompanying resolution are adopted by a  
12 vote of 7-0. The council now turns to action on zoning text amendment 06-05 requiring  
13 site plan review for a certain project in a C2 zone, the PHED committee has  
14 recommended approval with amendments, Chairman Silverman.

15  
16 Councilmember Silverman,  
17 Thank you Mr. President. The committee unanimously recommends approval of ZTA  
18 06-05 with amendments, committee recommends a requirement for site plan approval  
19 when new construction, the C2 zone exceeds 200,000 square feet of total floor area,  
20 the amended language clarifies the meaning of total floor area, prevents project from  
21 avoiding site plan approval by a series of building permits and excludes regional malls  
22 from this site plan approval requirement. The intent of the legislation which the  
23 committee agrees with is that a 200,000 square foot total floor area represents a  
24 significant change in the character of most shopping centers and that they warrant that  
25 such changes warrant public review and input through the site plan approval process.  
26 The reason for the exception for regional malls is that they are much bigger. It's  
27 probably the simplest way of putting it and 200,000 square feet is not going to turn what  
28 might be a very small center into a super center of some kind I mean that is what I'm  
29 sort of paraphrasing. I think there was subsequent to committee if I remember correctly  
30 there was a letter that we received in connection with trying to clarify whether  
31 underground garages

32  
33 Jeff Zyontz,  
34 You did receive such a letter.

35  
36 Councilmember Silverman,  
37 Yes

38  
39 Jeff Zyontz,  
40 It was discussed with each of the committee members

41  
42 Councilmember Silverman,  
43 Right. And agreed to it.

44  
45 Jeff Zyontz,



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1 Not include underground parking as part of the additions to total floor area, so the  
2 language before the council in your packet says that only above ground garages are  
3 included in total floor area.

4  
5 Councilmember Silverman,  
6 Okay. I just wanted to make sure that that was clear. Okay, that's clear.

7  
8 Council President Leventhal,  
9 Okay. Is there a discussion on that committee's recommendation? There are no  
10 questions or comments. The clerk will call the roll.

11  
12 Council Clerk  
13 Ms. Floreen?

14  
15 Councilmember Floreen  
16 Yes.

17  
18 Council Clerk  
19 Mr. Silverman?

20  
21  
22 Councilmember Silverman  
23 Yes.

24  
25 Council Clerk  
26 Mr. Knapp?

27  
28 Councilmember Knapp  
29 Yes.

30  
31 Council Clerk  
32 Mr. Andrews?

33  
34 Councilmember Andrews  
35 Yes.

36  
37 Council Clerk  
38 Mr. Perez?

39  
40 Councilmember Perez  
41 Yes.

42  
43 Council Clerk  
44 Ms. Praisner?



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1 Councilmember Praisner

2 Yes.

4 Council Clerk

5 Mr. Leventhal?

7 Council President Leventhal'

8 Yes. ZTA 06-05 is adopted on a vote of 7-0. The council now takes up zoning text  
9 amendment 06-22. which relates to office real estate in C1 and C2 zones. We have a  
10 recommendation in favor from the PHED committee Chairman Silverman.

12 Councilmember Silverman,

13 Thank you Mr. President. The committee recommended 3-0 although I remember there  
14 was some grumbling on some parts.(laughing)

16 Councilmember Praisner,

17 Might have been grumble, grumble.

19 Councilmember Silverman,

20 Approval of ZTA 06-22 with an aim to limit real estate offices in the C1 zone to 50  
21 percent of total gross floor area. This can best be described as clean up correcting and  
22 oversight in the zoning ordinance which was created in 1984 when general offices and  
23 real estate offices were identified as separate uses. The bottom line is got a whole  
24 bunch of real estate offices that are already in C1 zones and therefore this is not going  
25 to fundamentally change what's going on in practice and there appears to be some  
26 significant confusion and need for clarification based on discussions that arose out of an  
27 applicant who was turned down by DPS because of their literal reading of this and so  
28 from a policy standpoint this is not going to change what has been a practice that has  
29 evolved over years of allowing real estate offices in C1 zones. We wanted to make sure  
30 there wasn't going to be an overly large real estate office which would potentially crowd  
31 out locals serving retail uses in C1 zones and therefore there's a provision limiting the  
32 percentage of gross floor area to 50 percent of the of the what, Jeff? What would you  
33 character

35 Jeff Zyontz,

36 Of the building.

38 Councilmember Silverman,

39 Of the building or center or whatever

41 Jeff Zyontz,

42 Right, it's always gross floor as reviewed on each side.

44 Councilmember Silverman,

45 Right. Okay. That's it. 3-0 with some grumbling.



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1  
2 Council President Leventhal,  
3 Okay. 3-0 with some grumbling. Are there any further questions or comments from  
4 council members? There are not. The clerk will call the roll.  
5  
6 Council Clerk  
7 Miss. Floreen?  
8  
9 Councilmember Floreen  
10 Yes  
11  
12 Council Clerk  
13 Mr. Silverman?  
14  
15 Councilmember Silverman  
16 Yes.  
17  
18 Council Clerk  
19 Mr. Knapp?  
20  
21 Councilmember Silverman  
22 Yes.  
23  
24 Council Clerk  
25 Mr. Andrews?  
26  
27 Councilmember Andrews  
28 Yes.  
29  
30 Council Clerk  
31 Mr. Perez?  
32  
33 Councilmember Perez  
34 Yes.  
35  
36 Council Clerk  
37 Ms. Praisner?  
38  
39 Councilmember Praisner  
40 Yes.  
41  
42 Council Clerk  
43 Mr. Leventhal?  
44  
45 Council President Leventhal



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1  
2 Yes, The ZTA passes on a vote of 7-0. The council stands in recess until the hour of  
3 11:45 until when we will have a briefing on the Birchmere project.

4  
5 UNKNOWN SPEAKER

6 Where is the briefing at?

7  
8 Council President Leventhal,

9 We will begin the briefing here on the advice of the county attorney. There are some  
10 proprietary matters that will need to be addressed in closed session. Part of the briefing  
11 will be in public session beginning here and then when the closed session begins  
12 assuming the council votes in favor of a closed session if that vote is in favor of a closed  
13 session then will have the closed session in the 6th floor conference room probably  
14 around noon.

15  
16 Council President Leventhal,

17 We are back. We are in session. We are beginning with as much information as can be  
18 shared publicly with respect to a proposal to bring the Birchmere to Silver Spring, this is  
19 a project that will be that elements of the community have been strongly advocating for  
20 some period of time, the department of economic development has been working with  
21 some property owners in downtown Silver Spring and with the Birchmere. I understand  
22 is the county attorney represented here? Who is here from the County Attorney? I  
23 thought we were going to get some advice about what we can discuss publicly and what  
24 we need to discuss privately. How do we know when we need to go into

25  
26 David Edgerly,

27 We have a [INAUDIBLE] from them.

28  
29 Council President Leventhal,

30 What's that?

31  
32 Councilmember Praisner,

33 The memo we got is confidential so anything in the memo is confidential.

34  
35 Council President Leventhal,

36 Right. Okay, I mean as a general matter, I think council members prefer that whatever  
37 can be discussed in public is discussed in public and if there are sensitive items that  
38 should be discussed in closed session it will be in order for a council member to make a  
39 motion to go into to closed session, however as much as we can discuss in public I  
40 think the sense of the council has been that we would like to do as much in public as we  
41 can and I thought we were going to get advice from the County Attorney.

42  
43 David Edgerly,





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1 Let me share with you how we were going to handle that. We have, not that there's a  
2 higher authority than the County Attorney but we have the managing partner with  
3 Birchmere with us, Mr. Jim Matthews in the audience.

4  
5 Councilmember Praisner,  
6 They have advised us on legal stuff

7  
8 David Edgerly,  
9 They can't advise you on legal stuff but the legal violation would have to do with the  
10 release of information that they objected to. So we have already talked about and that's  
11 your place, you have information that they are comfortable with.

12  
13 Council President Leventhal,  
14 I'll tell you what, David, why don't you begin now. We're in open session now.

15  
16 David Edgerly,  
17 Okay.

18  
19 Council President Leventhal,  
20 And it's in order and I'm calling on you. Why don't you just start talking.

21  
22 David Edgerly,  
23 Alright. Thank you for the opportunity to present this project. It's, I guess in our  
24 business we have the opportunity to celebrate some extraordinary things that have  
25 happened in the county and the Birchmere certainly would be among I guess at the  
26 forefront of some of those activities. When we bring a company to the county it has a  
27 finite client base in many cases, it is the employees, their families that are supported by  
28 that business. With something that has community reach like the Birchmere and  
29 previously the Nederlander affect the entire county, the entire community literally tens of  
30 thousands of people that would participate in various things that they offer. The  
31 Birchmere is a project that we've worked for about four years looking at various  
32 locations in the County. I've said we have Mr. Jim Matthews with us in the audience  
33 managing partner for the Birchmere, as well as Bruce Lee with Lee Development, which  
34 is the site they have selected to locate their facility on, assuming the transaction  
35 continues to have the support necessary to do that. The pages are not circle numbered  
36 but if you want to follow along, the first page describes the partners and they include not  
37 only the nationally recognized music venue, one of the top ten by many places for  
38 singer, songwriters to plan and they are currently located in Alexandria. They're looking  
39 at this as their second location. Lee Development Group that's a firm that owns the JC  
40 Penney site in Silver Spring and some other property holdings in the surrounding area,  
41 and also at your place is a sheet that describes the site in some detail and finally the  
42 partnership that we formed with the state of Maryland the Department of Economic  
43 Development specifically to jointly fund in a 50/50 partnership of public funds, the  
44 acquisition of the improvement on land, that I will describe in a minute, it's been four  
45 years, on the following page the history since we first started working with the



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1 Birchmere, as I said they are seeking a second home. Note worthy is that it would not  
2 only support the county but it would be the capstone to the Silver Spring  
3 Redevelopment Project serving the Central Business District, the enterprise zone and  
4 also our Arts and Entertainment District. We also want to share that we have a resound  
5 I mean tremendous community support unlike many projects we have had, just been  
6 overwhelming in terms of the support that has developed for the project. There is even  
7 a website that citizens formed to talk about the status and support for its effort. The  
8 transaction, on the next page, with the site being located behind the northeast corner of  
9 Colesville and Georgia Avenue, we plan to do feasibility work first, preliminary  
10 engineering, preliminary architectural work, design, cost estimation, and like. That will  
11 give us the final go or no go on feasibility of developing the theater building as part of an  
12 optional method project that Lee Development plans to pursue and if that is done the  
13 land would be donated by Lee Development into the project as part of the optional  
14 method amenity and green space requirements. The county and the state would fund  
15 the theater building and it's currently envisioned that we would do that through an  
16 acquisition of the building, turnkey. Finally we would lease the building to the Birchmere  
17 with the Birchmere funding up to a Million dollars for furniture, fixtures and equipment as  
18 well as miscellaneous start up costs.

19 The financing proposed for the state of Maryland, two million dollars each year for two  
20 years. That is in the Governor's budget, I'm told this year. They have requested a  
21 meeting with us for next Monday in Baltimore to give details about the project in similar  
22 fashion to what we're doing here today with you, and we will be represented with DBM  
23 at that meeting. The county would match that with a similar appropriation. Lee  
24 Development would contribute the land value at the time that's negotiated in the  
25 purchase and joint development agreement. And then finally the Birchmere as I said a  
26 minute ago would fund the FF&E and the start-up costs. The benefits of, I don't think  
27 we did justice to this page, but we did list some of the benefits for the project, the draw  
28 to the CBD, the capstoning the redevelopment project, increased pedestrian activity.  
29 early shows, a new restaurant, providing support for the area, lunch and dinner, it also  
30 begins the development process for a strategic location that's currently controlled by  
31 Lee Development, I guess are going to continue to be controlled by Lee Development  
32 and then it utilizes also it kind of preserves the historic façade, and it is historic of the JC  
33 Penney site. Currently I'm sure you know there's no similar venue in this county.  
34 Residents have to go out of the county to other areas for live music entertainment of this  
35 kind. And that's where I'll stop and see if you have any questions, I'd be happy to try to  
36 answer or invite Mr. Matthews or Mr. Lee to the table to answer questions that they  
37 would also.

38  
39 Council President Leventhal,  
40 Mr. Subin?

41  
42 Councilmember Subin,

43 Thank you Mr. President. Long overdue getting to this point, very welcome. The only  
44 question that I have is what happens to the current Birchmere? Are they going to have  
45 two sites or this one?



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David Edgerly,

I can answer that. I think this is planned as a second location and that's the way it was described in the media. Currently people that lived because of congestion can't get to

Councilmember Subin,

I was supposed to have gone last week but I had to go to this other class so I wasn't able to make it

David Edgerly,

With the growth of population.

Councilmember Subin

With what the traffic was like going out there so I didn't get to go. So then I'll have two parallel programs.

David Edgerly,

The current plans are there would be two programs.

Councilmember Subin,

And I'm going to assume knowing Mr. Lee that the market studies have been done that would be the support for two programs.

Council President Leventhal,

Shall we call the gentlemen for the Birchmere to answer that question.

Councilmember Subin,

Yeah, we can to that.

Council President Leventhal,

Please.

Councilmember Subin,

I mean but while he's coming up it seems that what

Council President Leventhal,

Push the mike button to talk and you need to introduce yourself for the record please.

Jim Matthews,

Okay. My name is Jim Matthews. I'm the managing partner of the Birchmere Organization, as far as formal market study, we have not done one. The Washington DC area is so enormous and the population growth is continuing and the traffic is only going to get worse and worse so we have numerous requests we'd have had over the years to open a facility in Montgomery County because of the people literally can't get to the Birchmere at 7:30 for the show. So we just believe that it's the Montgomery County



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1 market is as good as the Richmond Virginia market for instance and that Washington is  
2 really segmenting into different markets. We are going to change the Alexandria  
3 Birchmere a little bit, do some things that will make it a little bit different, it will stay the  
4 same, but probably the number of shows will go down, will decrease there a little bit but  
5 we plan to make this Silver Spring Birchmere our primary focus.

6  
7 Councilmember Subin,

8 In not doing the market study then, what the presumption would be is that folks who live  
9 in Columbia and work in Baltimore who would not take the risk of trying to get to  
10 Birchmere. One would now say, okay, I can get to Montgomery County and then be  
11 home in less than half an hour instead of trying to fight it from Baltimore to Alexandria,  
12 and then to fight from Alexandria back to Columbia.

13  
14 Jeff Matthews,

15 Our show starts at 7:30, so we're a cabaret style venue as you know which is a sit  
16 down, dinner's offered and so people come in at 6:00, the doors of the theater are open  
17 and so they eat and so forth. That's the rush hour traffic obviously and it's just you  
18 know, pretty impossible to make it, now the Birchmere Alexandria, we have very large  
19 stand-up venue there also. What we would like to do here is have a kind of an  
20 incubator facility also attached to the restaurant for young developing acts, sort of thing,  
21 what we like to do is also develop our audience, you know, as they become younger,  
22 they [INAUDIBLE] on style acting, more of a standup

23  
24 Councilmember Subin,

25 Jack the Silverman and Subin is going to be able (laughter). We sing and dance.

26  
27 Councilmember Silverman

28 We can make it a trio.

29  
30 Jeff Matthews,

31 Right, so whereas we are working as at the traditional Birchmere Theatre, it is also  
32 going to have the additional, those will be a little bit different also, so. Yes sir?

33  
34 Council President Leventhal,

35 Mr. Knapp?

36  
37 Councilmember Knapp,

38 Thanks. Again, I think it's pretty exciting project. If I heard you, so this is your primary  
39 venue and you are kind of shifting focus so that you're going to, I don't know if that is  
40 correctly stated, you said you are not vacating the Alexandria premise but you are kind  
41 of setting up, I don't know if it's a parallel path or may be, looking to recruit similar types  
42 of, the same types of shows that you currently do, same types of acts?

43  
44 Jeff Matthews,



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1 Yes, sir. First of all we believe that most acts will play both venues, so if let's use if  
2 Jerry Jeff Walker comes in we believe that he would play in Alexandria and then come  
3 to Silver Spring.

4  
5 Councilmember Knapp,  
6 Okay

7  
8 Jeff Matthews,  
9 In years past, that might not of happened cause the agents say well it's the same  
10 market but that they understand now that Washington, it's so segmented that the record  
11 [INAUDIBLE].

12  
13 Councilmember Knapp,  
14 Okay.

15  
16 Jeff Matthews,  
17 Also, we intend to once again at this location have this incubator club which would be  
18 much different than what we have in Alexandria. In Alexandria we have a really large  
19 stand up room where we might play George Throgood or something but we don't have  
20 the metro acts that's in the urban field, the urban character we have here so we think  
21 this will add a lot of vibrancy to Silver Spring and it will raise our customers as well as  
22 new acts, so we are really excited about that.

23  
24 Councilmember Knapp,  
25 How big do you expect this theatre to be? Theaters?

26  
27 Jeff Matthews,  
28 Wel we would like the sit-down theater to be approximately 700 seats and we would like  
29 the incubator club to be approximately you know be more of a stand up, between 2,  
30 300, something like that. This is where your act will probably start off at that theater  
31 there. Small the smaller one, then

32  
33 Councilmember Knapp,  
34 They may be out on the sidewalk for a while (laughter)

35  
36 Jeff Matthews,  
37 Then they will get into the big stuff. Then will have to see how it goes.

38  
39 Councilmember Knapp,  
40 Oh, we continue to digress. Question for David. So Lee donates the land to the  
41 county?

42  
43 Jeff Matthews,  
44 County.



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1 Councilmember Knapp,  
2 The county is now we own it?

3  
4 Jeff Matthews,  
5 Right.

6  
7 Councilmember Knapp,  
8 Okay, I like that, I think.

9  
10 Jeff Matthews,  
11 You do.

12  
13 Councilmember Knapp,  
14 The county will lease this to the Birchmere? We had discussions as to length of leases  
15 or anything along those lines? Is that something we need to talk about?

16  
17 David Edgerly,  
18 We have, we'd like to talk about that in closed session.

19  
20 Councilmember Knapp,  
21 Okay. Then looking at your financing, the one million for FFE and start up, do we  
22 expect that to be a total number or is that capped at one million and so if exceed, if  
23 FF&E and start-up costs exceed one million is that something that is coming back to us  
24 to look to fund?

25  
26 David Edgerly,  
27 The answer is it's not coming back to us. That's an estimate. We're dealing with  
28 estimates now for the launch of the project. Now having said that that is not to say that  
29 some FFE might not be included in the eight million dollars formed by the public sector.  
30 The rounding that's done is the million dollar commitment by the Birchmere or up to that  
31 amount. We all feel and architects have been engaged in this project we talked to cost  
32 estimators, we have experience with construction in the area. We all feel very  
33 comfortable that the theater building proper with its turnkey operations can be delivered  
34 in 2008/9 for the amount of money that we have. I know that council has heard that  
35 many times but we have several good projects that we have been involved in and we  
36 have I think have demonstrated to bring things in on time and on budget. When  
37 external influences don't affect us as is the case with the conference center, but we we  
38 have built many things and we are prepared to do this also. The beauty of being able to  
39 negotiate this as a joint development at this stage is that we can design to the envelope,  
40 meaning, we will know how much working with construction, developer and the operator  
41 and us we will know how big the envelope can be so if it has to be 675 seats or it can be  
42 732 seats we would be able to do that and make those adjustments around those  
43 available funds.

44  
45 Councilmember Knapp,



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1 Okay. So you are looking at I heard you the 8 million is going to be sufficient to at least  
2 renovate the building and there maybe some FFE and/or start up costs that could be in  
3 the 8 million.

4  
5 David Edgerly,  
6 Yes. It's funded.

7  
8 Councilmember Knapp,  
9 Okay. Those are my questions for now. Thanks.

10  
11 Council President Leventhal,  
12 Okay, Ms. Praisner?

13  
14 Councilmember Praisner,  
15 Does the Birchmere own the facility in Alexandria?

16  
17 Jeff Matthews,  
18 Yes we do.

19  
20 Councilmember Praisner,  
21 Was there any discussion of the Birchmere acquiring this facility from the beginning  
22 here?

23  
24 Jeff Matthews,  
25 Oh, so very much so. Yes.

26  
27 Councilmember Praisner,  
28 Is that some conversation we have to have in closed session?

29  
30 David Edgerly,  
31 Suffice it to say they would like an option to purchase at some point.

32  
33 Councilmember Praisner,  
34 Did you have an option to purchase in Alexandria or did you buy it out right from the  
35 beginning?

36  
37 Jeff Matthews,  
38 We bought it outright at the beginning.

39  
40 Councilmember Praisner,  
41 There's no government participation or ownership in the building in Alexandria?

42  
43 Jeff Matthews,  
44 Not in Alexandria.





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1 Councilmember Praisner,  
2 And there never was?

3  
4 Jeff Matthews,  
5 No, there never was.

6  
7 Councilmember Praisner,  
8 Okay, Thank you. Have we done our due diligence on the fiscal analysis for an  
9 economic development fund initiative financial, I didn't send that information.

10  
11 David Edgerly,  
12 We can send that over, I'm Yes, we have.

13  
14 Councilmember Praisner,  
15 Okay. The obligations beyond the, the contract obligations there's a letter from the Lee  
16 cooperation, does that constitute the extent of the agreement between Lee and the  
17 County or are there other documents that have been signed and is there a signed  
18 agreement with Birchmere and is so can we have copies of whatever has been signed  
19 or

20  
21 David Edgerly,  
22 That was four questions (laughter)

23  
24 Councilmember Praisner,  
25 Well yeah.

26  
27 David Edgerly,  
28 But let me see if I can answer all of them at once. After working with the principals of  
29 each organization for this length of time, we've identified, we think all of issues they are  
30 memorialized in the letter of intent and we have an agreement once we know that the  
31 capital can be formed to move forward with the joint development in acquisition  
32 agreement but there are not other documents that are signed, by the between the  
33 County, Lee Development or Birchmere.. We're on at the letter of intent stage which is  
34 where we should be at this time and juncture in the project development.

35  
36 Councilmember Praisner,  
37 So, there are no additional obligations with the Birchmere for tickets and ongoing  
38 contributions to the operations that we have found out about in previous arrangements  
39 after the fact?

40  
41 David Edgerly,  
42 There are none. Those things could be discussed from the stand point of the you know  
43 the typical county box that is reserved but it's not been done at this point.

44  
45 Councilmember Praisner





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1 Well, it's much more than the county box that we're associated with it in other entities in  
2 Silver Spring.

3  
4 David Edgerly,  
5 There's is no discussion that the Birchmere has asked us for that would include ongoing  
6 assistance for the theater.

7  
8 Councilmember Praisner,  
9 The Lee letter although not binding the Lee's seems to put significant binding on the  
10 county and I'm uncomfortable with that. So I just want to put that on the record. It's a  
11 none binding letter of intent from you but there are certain commitments from county  
12 that appear to be more binding and in that case I think a little troublesome, so I'll just put  
13 that on the record from beginning of the process and binding of other agencies that are  
14 not part of this process and I don't believe we can bind those other agencies at this  
15 point and I think that's an issue of concern. As far as I am concerned.

16  
17 David Edgerly,  
18 We will discuss an approach to that, also.

19  
20 Councilmember Praisner,  
21 Okay, alright. So the fiscal analysis has been done but it's just not here for us. I think  
22 those are the only questions that I have that aren't closed session questions. Thank  
23 you.

24  
25 Council President Leventhal,  
26 Mr. Perez?

27  
28 Mr. Perez,  
29 When did the oh good morning or good afternoon. When did the Birchmere first open in  
30 Northern Virginia?

31  
32 Jeff Matthews,  
33 This is the fortieth year of the Birchmere.

34  
35 Councilmember Perez,  
36 Okay, so you were four?

37  
38 Jeff Matthews,  
39 I was just a glimmer in my parent's eyes. Well Gary Olse is our founder. He's still with  
40 us. He started it. He couldn't drink at his own place, yea it was one of those.(laughter)  
41 That that's our joke.

42  
43 Councilmember Perez,  
44 Then up and running for  
45



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1 Jeff Matthews,  
2 This is the fortieth year.

3  
4 Councilmember Perez,  
5 And how long have you been in the current location?

6  
7 Jeff Matthews,  
8 This is the tenth year.

9  
10 Councilmember Perez,  
11 tenth year. Okay, one thing David I would agree with you on is I'm looking at the last  
12 slide, and you said when presented it that you believe you understated the benefits of  
13 the Birchmere and I would agree with you and as we move forward on this I think it's  
14 important to educate the public about the entirety of the benefits of this program. There  
15 was and Mrs. Praisner asked a number of questions that are all fair game questions,  
16 there's there have been concerns about whether there will a perennial subsidy, other  
17 entities and this is distinct from that, that is not my understanding of this project. The  
18 economic benefits of a location as in as we all know, by the way do you own do you  
19 own that Rostas, you know I saw it's doing out of business?

20  
21 Bruce Lee,  
22 For the records my name is Bruce Lee, President of the Development Group. The  
23 answer to that question is no. That's owned by a neighboring owner.

24  
25 Councilmember Perez,  
26 Okay, so do you own the Italian restaurant?

27  
28 Bruce Lee,  
29 We do not. We own the

30  
31 Councilmember Perez,  
32 You end right at what will be the Birchmere?

33  
34 Bruce Lee,  
35 Exactly. The front facade of the former JC Penney about ninety linear feet and then the  
36 four to five buildings that are between Lee Plaza and the former JC Penny are owned  
37 by three or four different owners and we have no ownership in those buildings either.  
38 So we're strictly the 72,000 square feet of parking lot directly behind.

39  
40 Councilmember Perez,  
41 Right. I think it is important to educate the public about the unfinished business and you  
42 need walk no further than out the front door of the Birchmere or what I hope will be the  
43 Birchmere to observe the unfinished business. We have done town hall meetings in  
44 downtown Silver Spring since, a couple a year for the last four years and the Birchmere  
45 is always when asked the question what do you want to see in chapter two of Silver



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1 Spring revitalization this is always the first thing on the list, as the Civic Building, and  
2 then the Civic Building is much closer to a reality and this was

3  
4 Bruce Lee,

5 And now people want to keep the green space instead of the

6  
7 Councilmember Perez,

8 I just got off the, I was I was late because I was on Washington Post radio explaining  
9 why green space was not the not green astro turf. So I apologize for my delay in  
10 coming in here, but I do think it is important to outline the benefit when you walk on the  
11 west side of Colesville road and you then take a left there on Fenton. Those are areas  
12 that still have virtually no traffic after dark, and when you talk about Chapter two of  
13 Silver Spring revitalization, done a good job on done a great job on Ellsworth and that is  
14 a wonderful center hub of activity, but we as Mr. Silverman always points out and I will  
15 defer to his expertise on how many times bigger the Silver Spring Central business  
16 district is. then

17  
18 Councilmember Silverman,  
19 Mighty big.

20  
21 Councilmember Perez,

22 Mighty big I believe is the answer. So I mean I think in terms of the benefits I think not  
23 only for educating the council but for educating the public at large it's important to  
24 outline why this project is a beneficial to Silver Spring and B why this project is  
25 beneficial really to the county at large and I think there are many benefits having spent  
26 some time as recently as yesterday with the folks at the AFI, who are some of the  
27 biggest supporters of this project, the synergies there that have economic development  
28 impact. I mean this is you've, we've learned in Silver Spring and I would do it again with  
29 the AFI, you do have so spend money to make money and I believe strongly that this  
30 would be every bit the anchor that the AFI has proven to be. So I would simply, I state  
31 all this by way of observing that we need to do more, we, not you, we need to do more  
32 to educate everyone about the benefits and and with all due respect, you know this last  
33 slide is a start but it's a I could if you gave me ten minutes add about ten more bullet  
34 points to the benefit side and I'm sure if we brainstorm together we could add about 20  
35 so

36  
37 Bruce Lee,

38 We'll make the font smaller.

39  
40 Councilmember Perez,

41 Part of the work that lies ahead is doing that education. I would also note that I did read  
42 with interest the memo which included an attachment from our governor and I would I  
43 only speak for myself, I don't want to speak for too many of my colleagues in saying that  
44 it's my hope that when the budget is submitted next year it will be submitted by  
45 someone else.



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1  
2 Councilmember Praisner,  
3 No it will be submitted by the current governor.

4  
5 Councilmember Perez,  
6 It will submitted by the current governor?

7  
8 Councilman Praisner,  
9 Yeah.

10  
11 Councilmember Perez,  
12 Well the good news is I know that the next governor, if it is a democratic is as committed  
13 to this project then so I know there are some who might ask the question well what  
14 happens in the transition and obviously I can't speak for him, but I I do have a very  
15 strong level of confidence that regardless who is in that chair on the second floor of  
16 state circle that this project is universally recognized to be a very sound project. I know  
17 there are people who would review documents potentially who might ask that question  
18 and I and it's again it's a fair question to ask but I think there's also a fair answer to that  
19 question which is that there has been strong support and a recognition within  
20 governmental circles that this is something that's good to move forward and I would be  
21 reluctant to send a mixed message to the state as they prepare the budget now that the  
22 county is somehow not sufficiently committed to a project that we've been talking about  
23 for many, many years. So that's something we need to be mindful of is what messages  
24 we do send. Thank you Mr. President.

25  
26 Council President Leventhal,  
27 Before I'm going to call on Miss. Floreen, let me just clear to what will be the decision,  
28 I'm actually asking our staff this, what will be the decision specifically before the  
29 council? What generally happens with these requests from the economic development  
30 fund is we are notified sometime ahead that a proposal is being made to expend money  
31 from the economic development funds and then if we request more information as we  
32 did in this case, we have a discussion like we're having right now, and then there isn't a  
33 formal vote, rather the council gets it's questions answered and then the only point at  
34 which a formal vote would occur would be when a supplemental must be provided in  
35 order in fact to appropriate the money and that would come at some point down stream,  
36 perhaps not even this council, am I have I said anything wrong?.

37  
38 Clerk,  
39 Well, usually you give an indication if you strongly object to something.

40  
41 Council President Leventhal,  
42 If there's strong objection we would give an indication but we're not we're not taking a  
43 formal vote on the Birchmere at this time.

44  
45 Justina Ferber,



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1 No, you're not taking a formal vote but if a majority of you feel you're not going to fund  
2 anything in the future you need to let the executive know. If you have a problem, you  
3 need to let the executive know.

4  
5 Council President Leventhal,

6 Indeed. Okay. I just wanted to make that clear to colleagues. We're not actually  
7 leading up to a vote although if council member has strong objections it's it is  
8 important we know that otherwise we assume we're having discussion with the  
9 Department of Economic Development t and the department is continuing it's  
10 negotiations. Ms.. Floreen.

11  
12 Councilmember Floreen,

13 Thank you. I had the pleasure well maybe I shouldn't admit this I went to your  
14 competition on Friday night at down at the Ram's head in Annapolis. I wanted to ask  
15 about to get back to Mr. Subin's question about market kind of analysis. Ram's head  
16 has two venues, Annapolis and Baltimore. Is that sort of the model you're looking at?

17  
18 Jeff Matthews,

19 The model? I don't know what their model is. But we're looking at basically taking our  
20 model which is the Birchmere siles please, listening room, style of a of a performing  
21 venue to bring it Silver Spring, and we're going to stick with exactly what we do now  
22 which is the Birchmere type acts, the type presentations and the only difference will be  
23 we will have this smaller incubator facility with it.

24  
25 Councilmember Floreen,

26 Well my observation is that that, you know both operations are sort of comparable in  
27 terms of performing acts and the like. The one in Baltimore appears to be part of more  
28 of a mixed use deal sort of thing and I wondered if that was sort of the idea that you had  
29 in mind for this facility in Silver Spring?

30  
31 Jeff Matthews,

32 I don't think this will be a mixed use project. This will be a stand alone theater. I'm  
33 familiar with the Ram's Head in Baltimore. We were quite in fact we booked the initial  
34 Ram's Head which is a far smaller facility than Annapolis for the first five years which is  
35 why you see a similar similarity there you know on a business model, so

36  
37 Councilmember Floreen,

38 Well the one; it's a different market altogether it seems.

39  
40 Jeff Matthews,

41 Yeah. I mean it well Annapolis is definitely a different

42  
43 Councilmember Floreen,

44 It's a way of doing that business up there in Baltimore is. It's just a different set up,  
45 different age group I assume and I'll leave that to the people



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1  
2 Jeff Matthews,  
3 I don't know if it's more of a stand up facility?

4  
5 Councilmember Floreen  
6 Yeah. It's terrible. I was going to say you need more seats for us old people.

7  
8 Jeff Matthews,  
9 Okay.

10  
11 Councilmember Floreen,  
12 But I wanted to I was just curious as to how that would enter into you're you're plan for  
13 this and you're saying it's a very different kind of seating operation. What you're  
14 proposing here?

15  
16 Jeff Matthews,  
17 Right. Well if I understood you correctly the Baltimore operation is a stand up and the  
18 Birchmere is a sit down, there's table service, you know full service menu, full service  
19 bar, you arrive at your seat around 6:00 and the show starts around 7:00 7:30 generally  
20 speaking and it can be over anywhere from 9:30 till 10:00. You know it usually.

21  
22 Councilmember Floreen,  
23 So it would be, you anticipate a comparable model, I mean in

24  
25 Jeff Matthews,  
26 We are definitely bringing the Birchmere to Silver Spring. That what it is. It's going to  
27 be a Birchmere listening room experience.

28  
29 Councilmember Floreen,  
30 Okay.

31  
32 Jeff Matthews,  
33 Right that's what we do, so

34  
35 Councilmember Floreen,  
36 And as I understand it from the - we have a concept plan that you provided us with.  
37 This will basically be the first floor of an optional method project, Mr. Lee?

38  
39 Bruce Lee,  
40 The best way to describe this, this is a very much of a conceptual

41  
42 Councilmember Floreen,  
43 Oh, I understand that.

44  
45 Bruce Lee,



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1 Right, and in terms of the public immunity space area and that is actually how this all  
2 started four years ago was recognition that someday we might have a project on this  
3 site. Which ironically we don't have a project for this site other than the fact that we see  
4 the opportunity in working with the county and bringing Birchmere to the downtown  
5 area. The building itself will probably wind up being multi-leveled and with balcony  
6 seating on the inside and that type of venue.

7  
8 Councilmember Floreen,  
9 You mean the Birchmere part will be several?

10  
11 Bruce Lee,  
12 The Birchmere part. Right. So if you walk in through the front facade of the JC Penney  
13 which will be the future Birchmere, you're going to be walking into a situation where  
14 you're either going to have a bar area, holding area, very similar to the current location  
15 and then downstairs you'll have the seating. It really depends and those are the types  
16 of things we need to explore that we haven't had an opportunity to do that because  
17 we've really only been in fairness to us, meeting since August, we rekindled this even  
18 though we started this four years ago. But we're very excited about this opportunity and  
19 it's unique and that's why we need to be very creative in protecting ourselves and  
20 asking for a lot of protection cause again we don't have a project per se. The county  
21 came to us and said hey would you be interested in possibly helping us get the  
22 Birchmere here, so we're thrilled.

23  
24 Councilmember Floreen,  
25 So then but whatever the other project would be that this would be sort of pertinent too.

26  
27 Bruce Lee,  
28 Yes, in other words

29  
30 Councilmember Floreen,  
31 This would be on top.

32  
33 Bruce Lee,  
34 This would be phase one of the overall project, which we don't have a project. I know  
35 that sounds crazy, but

36  
37 Councilmember Floreen,  
38 I understand.

39  
40 Bruce Lee,  
41 This is unique, we're putting the amenity before the project

42  
43 Councilmember Floreen,  
44 It will be part of the challenge and





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1 Bruce Lee,  
2 It is it is a challenge.

3  
4 Councilmember Floreen,  
5 Let me ask about the timing of the pieces of this. To allow some predictability and  
6 certainty in your conversations I gather that we need to take some action with respect to  
7 the zoning ordinance, right?

8  
9 David Edgerly,  
10 There is in the letters of the intent there's a contemplation that this amenity preceding  
11 the development for the first time that we know of would be accommodated through an  
12 amendment through a zoning text amendment that was contemplated and we can talk  
13 about it in greater detail, this is a sophisticated project that has a lot of pieces we feel  
14 comfortable we can get there if and if certain support is given, it's all above board, it's all  
15 on the table in terms of how it would be organized for the state, the county, Lee  
16 Development and the Birchmere to come together for the final agreement but that's the  
17 next step that we have to go through after the approximate \$150,000 is spent on  
18 feasibility.

19  
20 Councilmember Floreen,  
21 The money part is what we're looking at this point. I'm trying to get a sense of the  
22 timing on when this other action would be required. I appreciate the fact there is no  
23 actual project that is even more than just someone's concept. For the rest of the thing  
24 but presumably you need some certainly in terms of how this will be treated in the long  
25 term before anything is finalized, is that correct?

26  
27 David Edgerly,  
28 That's correct.

29  
30 Councilmember Floreen,  
31 So that would be the next couple months?

32  
33 David Edgerly,  
34 It will be over the next couple months the feasibility would be done the meetings with  
35 the the the planning board would be necessary and staff. Meetings with the state and  
36 staff and all of those are on the schedule or to be scheduled pending the outcome of  
37 today's discussion.

38  
39 Councilmember Floreen,  
40 What I'm hearing from this is that unless we raise questions which I certainly don't have  
41 I mean problems with this, that this will go forward into further negotiation and then  
42 someone will come back to us the next council, I guess with requests or really  
43 requirement to adjust the zoning ordinance to assure that an amenity before the fact  
44 can be produced, is that





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1 David Edgerly,  
2 That's correct.

3  
4 Councilmember Floreen,  
5 Is that how I see it?

6  
7 David Edgerly,  
8 That's correct. The decisions of the council will control the budget for the process on  
9 the county side as well as the land use issues that are identified, so there are additional  
10 steps that come back before various committees of the council as well as full council for  
11 action, so this is not a final day with respect to the approval of the project. Certainly  
12 we're not asking for appropriation of new funds today, we have the funds already in  
13 hand for the feasibility study, we do consistent with the

14  
15 Councilmember Floreen,  
16 So that's the first step.

17  
18 David Edgerly,  
19 Economic Development Fund executive regulations, we do consult with the council and  
20 ask for concurrence that the feasibility should move forward. But then it's again it's  
21 perhaps a baby step to be cliché with respect to the ongoing discussions

22  
23 Councilmember Floreen,  
24 So you anticipate that the feasibility study would take a couple months

25  
26 David Edgerly,  
27 Yes, about that.

28  
29 Councilmember Floreen  
30 And at that point you would come back and ask us to do a text amendment?

31  
32 David Edgerly,  
33 Yes. and also it would

34  
35 Councilmember Floreen,  
36 Or would that be pending or would that need to start earlier? Well, it can't start earlier.

37  
38 David Edgerly,  
39 Well, if there's overlap we'll schedule that appropriately so we're not presumptuous with  
40 respect to the outcome.

41  
42 Bruce Lee,  
43 It's a fairly complicated because it involves park and planning and everybody in terms of  
44 and we in fact have a meeting with park complaining tomorrow. We've got our design  
45 team mostly in place with other pieces falling in place ready to roll and approach this as



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1 if it's a full blown project. But there's a lot of creativity to go into this. We're way outside  
2 the box, I mean it's fascinating to see if we can pull this off. But we're hopeful cause we  
3 see the tremendous benefits for downtown Silver Spring and especially cleaning up the  
4 other side of Colesville Road.

5  
6 Councilmember Floreen,  
7 Sure, oh yeah. Let me just ask, Mrs. Praisner elicited the response I think that at this  
8 point there's no anticipation of county contribution to operating cost.

9  
10 Bruce Lee,  
11 That's our current expectation also.

12  
13  
14 Councilmember Floreen,  
15 That's what I heard. I have to ask parking? Would this be something that we'd  
16 anticipate reliance on the county lot in that neck of the woods?

17  
18 Bruce Lee,  
19 In conversations with park and planning in the urban district, clearly the parking facility  
20 that there's on Cameron street and Fenton is under utilized and would be a terrific  
21 location very close proximity to the Birchmere. On the site itself behind the Birchmere,  
22 we're anticipating somewhere around 700 to 750 parking spaces and what's great is if  
23 the Birchmere operates in the evening hours versus the day hours so if there's an office  
24 building or mixed use residential or hotel, we don't know which, but we're going to  
25 design it around all those areas.

26  
27 Councilmember Floreen,  
28 I've been in your Virginia location, the parking lot is interesting. That's the best I can  
29 say. Which is fine. They obviously have a different approach. You don't have to  
30 comment.

31  
32 Bruce Lee,  
33 Right. We have over 300. That's okay. We have a very large parking lot.

34  
35 Councilmember Floreen,  
36 You do.(laughing)

37  
38 Bruce Lee,  
39 Safe and secure.

40  
41 Councilmember Floreen,  
42 Okay, thank you.

43  
44 Council President Leventhal,



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1 Here is what we need to do council members. I need your attention now. There's  
2 actually two proposals for closed sessions before us. One relating to the Birchmere, the  
3 second relating to a lawsuit pending regarding the Troutner appeal to a planning board  
4 decision. What I want to suggest is the following and then I'll need if council members  
5 agree with my suggestion, will need some motions from council members to make this  
6 happen. What I want to suggest now is that we break for lunch, we visit with the senior  
7 leadership Montgomery Group which is waiting to meet with us, we have closed session  
8 at 1:15 on the Birchmere. If council members agree with that, I would need a motion to  
9 that effect, my second, okay, Mr. Perez has moved and Mrs. Praisner has seconded a  
10 closed session to consider a matter that concerns the proposal for a business or  
11 industrial organization to locate expand or remain in the state pursuant to Maryland  
12 code, state government article Section 10-508(a)(4), the topic is the Birchmere project,  
13 that closed session would take place at 1:15. Secondly I'm going to suggest that we  
14 have the closed session regarding the Troutner matter if council members believe it's  
15 merited after the planning board discussion of it's work plan, so that would be at the end  
16 of today, whenever that might be. I'm guessing it would be around 4:00, but that's a  
17 guess. So if that's acceptable to council members, we can take up that motion at that  
18 time. Okay so the motion before us is to have the closed session on the Birchmere at  
19 1:15 those in favor of holding that closed session will signify by raising their hands. It is  
20 unanimous, we will not go to lunch and resume, yes sir, Mr.

21  
22 David Edgerly,  
23 In the closed session did you want to extend invitation to the Birchmere facility folks and  
24 Lee Corporation? Okay. Sometimes that's done, sometimes it's not.

25  
26 Council President Leventhal,  
27 We don't want the either the Birchmere or Lee Development Group in the closed  
28 session? Is that the sense of the make of the motion, Mr. Perez?

29  
30 Councilmember Perez,  
31 Correct.

32  
33 Council President Leventhal,  
34 The closed session will only be that's fine

35  
36 Councilmember Perez,  
37 I just wanted to ask.

38  
39 Council President Leventhal,  
40 The closed session will only be with council members and with Department of Economic  
41 Development. Okay thank you very much. And we are in recess until the hour of 1:15  
42 for the closed session.

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1 Council President Leventhal,  
2 Good afternoon. This is a public hearing on a resolution to approve the franchise  
3 agreement for use of a public right of way by Xpedius Management Company of  
4 Maryland to operate a telecommunications system. The Management and Fiscal Policy  
5 Committee is scheduled to take this up on October 16th at 2:00 p.m. Anyone who  
6 wants to submit additional information for the council to consider should do so by the  
7 close of business Wednesday, October 11th. There are no speakers for this hearing.  
8 Agenda Item Eight is a public hearing on a supplemental appropriation to the  
9 department of public works and transportation's FY '07 capital budget and amendment  
10 to the FY 2007 through 2012 Capital Improvements Program for the Multi-Agency Drive  
11 Training Facility in the amount of \$1,608,000. The public safety committee is scheduled  
12 to take this up on October 16th at 9:30. Anyone who wants to submit additional  
13 information for the council to consider should do so by the close of business  
14 Wednesday, October 11th. There are no witnesses for this hearing. Vice President  
15 Praisner.

16  
17 Council Vice President Praisner,  
18 I just want to make a couple of comments. I appreciate the public safety committee will  
19 have some conversation about these issues in my -- the response to my questions, the  
20 memo, which was included within the packet is, in my view, very interesting but raises  
21 significant questions about what do we know and when do we know it in the  
22 construction process, and I think it is troubling from my perspective. And I want to know  
23 what we can do to reduce the costs at this point.

24  
25 Council President Leventhal,  
26 Is there someone who wants to try to answer --

27  
28 Council Vice President Praisner,  
29 No, I don't need the answer now. I'm going to anticipate that coming up in public safety.

30  
31 Council President Leventhal,  
32 That will come up in committee. Okay. Chairman Andrews.

33  
34 Councilmember Chairman Andrews,



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1 Thank you, Mr. President. I want to say that I think Mrs. Praisner has raised very good  
2 questions, and we will address them in the Public Safety Committee and appreciate her  
3 attention to those details.

4  
5 Council President Leventhal.

6 That concludes agenda Item Eight. Agenda Item Nine -- Oh, I'm sorry, Mr. Denis.

7  
8 Councilmember Denis,

9 Yeah, thank you, Mr. President. If we could revert the order of business to Item Four  
10 this morning, application No. G850, the hearing's examiner's Report recommendation.  
11 I'd like to be recorded in the affirmative. I was temporarily out of the room and the vote  
12 was unanimous.

13  
14 Council President Leventhal,

15 If there is no objection, Mr. Denis will be so recorded on Agenda Item Four. We now  
16 turn to Agenda Item Nine, which is a public hearing on Bill 38-06, technical corrections,  
17 which would correct technical, typographical, grammatical, and codification errors in and  
18 make stylistic, clarifying, and conforming amendments to various provisions in county  
19 law.

20  
21 Unidentified Speaker,

22 There are no speakers? There are no speakers for this?

23  
24 Council President Leventhal,

25 I just got to say I love this sentence. I was an English major, you know. I just love this.  
26 With technical, typographical, grammatical, and make codification errors in, and make  
27 stylistics, clarifying, and conforming amendments to various provisions in county law.

28  
29 Councilmember Silverman,

30 I understand Lil Young had signed up for this. She's running a few minutes late.

31  
32 Council President Leventhal,

33 And we're going to take up this bill, 3806, a week from today. And anyone who wants to  
34 submit additional information for the Council to consider should do so by the close of  
35 business, Thursday, October 12th. Vice President Praisner.

36  
37 Council Vice President Praisner,

38 I got to say I understand some of the technical, but there are also some substantive  
39 changes that appear to be here. Are they all errors when they were recorded? Fro  
40 example, changing from March 1st to December 31st, a sunset date, is a pretty big  
41 difference on Line 87. Changing from the county executive to the county council, the  
42 president, the notification requirement on 107, 108, 113 to 116, eliminating when  
43 emergency legislation remains in force, and on circle 22, the change of the dollar  
44 amount effective from -- adding \$30,000 instead of the \$40,000. Those seem to be



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1 more than just stylistic or technical or, you know, typos and things. They seem very  
2 substantive.

3  
4 Amanda White,

5 Two of them I can specifically address. And the dollar amount you just mentioned on  
6 circle 22 actually came from the county attorney's office. It was in the original bill. I  
7 understand it was not properly underlined is my understanding

8  
9 Council Vice President Praisner,  
10 Okay.

11  
12 Amanda White,

13 So that is a technical correction. The sunset date, which I'm getting to, on Line 87 is  
14 also -- it is a technical correction. In one bill it was March 1st., in another bill it was  
15 December 31st. And the way that the two bills were codified, the intent was always  
16 December 31st.

17  
18 Council Vice President Praisner,  
19 And the difference between the executive and president of the council?

20  
21 Michael Faden,  
22 To clear up conflicting provisions in law.

23  
24 Council Vice President Praisner,  
25 Okay. Thank you.

26  
27 Council President Leventhal,  
28 That concludes Agenda Item number nine. Agenda Item 10 is a public hearing on  
29 expedited bill 43-06, Ethics, Montgomery Care's Program Advisory Board. This bill  
30 would exempt certain members of the advisory board for Montgomery Cares Program  
31 certain conflict of interest requirements under certain circumstances, require these  
32 members to file limited public financial disclosure statements and publicly disclose  
33 certain information regarding conflict of interest and generally amend the law governing  
34 public ethics and the Montgomery Care's Program. The health and human services  
35 committee will take this matter up on October 16<sup>th</sup>, at 2:30. Anyone who wants to  
36 submit additional information for the council to consider should do so by the close of  
37 business Wednesday, October 11th. There are no speakers on Agenda Item 10.  
38 Agenda Item 11 is a public hearing on expedited Bill 45-06, Forest Conservation -  
39 Protection of Champion Trees. This bill would apply the forest conservation law to  
40 certain champion trees and generally amend the forest conservation law. The  
41 transportation and environment committee is scheduled to take this bill up on October  
42 12th at 9:30 in the morning. The record will close at the conclusion of the hearing. We  
43 have five witnesses who have signed up to testify. Gwen Wright, representing the  
44 planning board; Mr. Wayne Goldstein, Ms. Betty Petrides, Ms. Ginny Barnes, and Ms.  
45 Karen Madsen. Will all witnesses please come forward. Gwen Wright, you may begin.

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Gwen Wright,

Thank you. For the record, I'm Gwen Wright, acting chief of the countywide planning division. And although my -- most of the planning department board members are here, I am the one to speak to you today about this specific bill. On the whole, the board supports the effort to protect champion trees. They are very important and unique resources. There are approximately 150 such trees currently identified on the Montgomery County Forest District Conservancy boards register of champion trees. However, we have some specific comments and proposed language changes that we think will help it be a more workable, enforceable program. Just to go quickly to those specific changes, and you do have a letter from Mr. Hanson that's been distributed to you all. We have concerns about the definition of champion tree as it is written in the proposed bill. We recommend that that definition be somewhat narrowed to state that champion tree means the largest tree of its species in the county as designated in the register of champion trees maintained by the Montgomery County Forestry Conservancy district board. I think that this has been the accepted standard for champion trees. And we are concerned about setting up the second process by which champion trees might be designated. We think we should go simply with the existing process. The second issue has to do with the portion in the applicability section that talks about applying the forest conservation law and helps determine when it will be applied. We feel, again, this needs more specificity. There needs to be a measured distance from the base of the champion tree within which clearing and land disturbing activities trigger the law. We recommend language on the fourth page of the letter, which states a person performing -- the law would be applicable if a person is performing cutting or clearing or any kind of land disturbing activity within 140 feet from the base of a champion tree. This is based on the critical root zone of the largest designated champion tree in Montgomery County. All other champion trees on the registry are smaller. So we're taking the largest critical root zone and using that as the basis. Basically we also want folks to understand that even though this change would be made to a law it is not an absolute veto of cutting down a champion tree. That is not how the forest conservation law works. If this law is passed it means someone with a champion tree on their property might need to go through and file a forest conservation plan, but that is not an absolute veto of cutting down a tree. You can offer mitigation in a forest conservation plan. It does create another step. It creates another process, but it is not the same as a tree ordinance. And I hope folks understand that. We don't want to raise unrealistic expectations. So in conclusion, the board supports saving champion trees. We think with these language changes it will be a very useful, enforceable program. We understand this may be the first step in an effort to have an overall discussion about providing individual tree protection to properties in the county. We know this is of great interest to many people. It's a very large issue to be discussed with a lot of implications. And we think certainly that issue requires more study. Thank you.

Council President Leventhal,

Thank you very much. Mr. Goldstein?





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Wayne Goldstein,

I'm Wayne Goldstein. I will be speaking for the Montgomery County Civic Federation Environment Committee. The committee supports this bill, because who doesn't value champion trees? In fact, the state of Maryland first began to identify its largest trees in 1925, and of the 24 boards in the state for counties and Baltimore City, Montgomery County is the most proactive in identifying those trees. So this is really the logical next step. Once we -- since we identify them, since we treasure them, then we want to do everything we can to protect them. The committee agrees that the planning board should not have the responsibility of maintaining a list; however, in this one sentence in their memo, "Although our field staff often has the opportunity to nominate champions," I would say -- and I don't know if putting in language would be appropriate, but that they have the duty to nominate champions should they come across them in their travels to nominate or otherwise notify the Forestry Board that there may be a champion and that they should move expeditiously to measure it and see if it does, in fact, make the grade. As far as disturbance, at a minimum, the outermost drip line should be protected. And the problem in construction, particularly on smaller lots, if you don't have a large enough area from there, significant protections of a piece of equipment in the course of moving could go right through a fence and compact the root zone. So as far as a measure, I think we should be measuring from the drip line of the tree rather than the base of the tree. So that may be language to add in to specify that protection.

Thank you.

Council President Leventhal,

Thank you, Mr. Goldstein. Ms. Petrides.

Betty Petrides,

Thank you. My name is Betty Petrides, and I'm testifying on behalf of Citizens for a Better Bethesda. As a resident of the Bethesda neighborhood in which a champion weeping cherry resides, I'm eager to speak in support of this bill. I have to clarify the law protecting the county is roughly 150 champion trees, whether they're located on large or small parcels of land on public or private property, such trees are a value to citizens. Let me introduce you to our champion, for those of you who have the piece of paper, we have a picture of it. And you'll see that it is on a smaller lot on private property, and tell you why this has special value to our neighborhoods and our larger community. The tree located at 7708 Marbury Road in Bethesda, has a trunk 128 inches in circumference. It's 32 feet tall and bears a canopy 59 feet across. The tree is exquisite in spring bloom. It stands at the corner of a street lined with other cherry trees. And the area, although less known than Kenwood for its spring display of cherry blossoms, attracts its own tourists, including those directed to us by the Japanese Embassy. The tourists eagerly take pictures of our champion. For over 50 years the tree has also been a destination for walkers, bikers, hikers and commuters from the surrounding community. Like other trees of its age, it also offers significant benefits to immediate neighbors in the area. This includes the increased value for their property. And such a mature tree can, in the course of 50 years, generate \$31,250 worth of





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1 oxygen, provide \$62,000 worth of air pollution control, recycle \$37,500 worth of water,  
2 and thus reduce the impact from drainage problems that exist in our neighborhood, and  
3 control \$31,500 worth of soil erosion. It also defines the character of the neighborhood  
4 in which it exists. So strongly does it represent the community's identity that over 150  
5 people signed a petition supporting the protection of the tree after some county officials  
6 had told us that tree was not eligible for such protection. In spite of language in the  
7 forest conservation law that appears to clearly say otherwise. Other individuals came  
8 together in a rally that generated articles in the Washington Post and the Sentinel.  
9 More people responding to those articles have contacted us since. Champion trees are  
10 serious business for people in Maryland, a state with a strong record of tree protection,  
11 and they need to be clearly designated as protected in our law in Montgomery County  
12 no matter where they're found. It should not require a community to have to go to court  
13 to seek a temporary restraining order and a consent order to protect a champion tree as  
14 we in this community have had to do. On behalf of the citizens for Better Bethesda and  
15 Bethesda community, I strongly urge the county council to support council members  
16 Denis and Praisner and pass the expedited bill, 45-06, to clarify the law so that  
17 champion trees can be protected throughout the county. Thank you.

18  
19 Council President Leventhal,  
20 Thank you very much. Ms. Barnes.

21  
22 Ginny Barnes,  
23 Thank you. For the record, I'm Ginny Barnes, and I'm testifying on behalf of the West  
24 Montgomery County Citizens Association. It goes without question that on behalf of our  
25 membership, I support this bill. We thank Mr. Denis and Ms. Praisner for acting so  
26 promptly to introduce it, and we trust the council will pass it. We do have some  
27 concerns. The critical root zones of champion trees do not remain within property  
28 boundaries. How can we, or do we deal with their presence on adjacent properties?  
29 Does there wherever located revised language in 22A-4C, also apply to champion trees  
30 on public lands? And that question hasn't been answered for me. Perhaps adding  
31 "Regardless of property size," or as I noticed in the memo from park and planning,  
32 which I've just seen a few minutes ago -- too bad they're not distributed more widely.  
33 Some additional language is needed to further clarify the amendment. My work this  
34 summer as a member of the Van Hollen Canal Task Force on more widely reaching  
35 amendments brought to light the extent of exemption afforded to highway construction  
36 and public utilities under the existing law. And one of my concerns is will champions  
37 really be protected from these activities by this amendment? This bill is very narrowly  
38 focused. It's a reaction to a critical situation. It is the third bill in a year that seeks to  
39 shore up or enhance a forest conservation law that has shown it cannot provide needed  
40 protections to our rapidly diminishing tree and forest resources. These facts points to  
41 the critical need for a comprehensive overhaul of the forest conservation law, not one  
42 bill at a time, to clarify what either is not there now, or is not being enforced by the  
43 agencies in charge of doing so. There is a real danger in passing small bits of limited  
44 legislation while avoiding the big picture problems. Groundwork has been done by the  
45 Van Hollen Task Force to put something stronger on the table. It may not be enough,



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1 but it's a start, and it needs to go forward as we were promised it would. The trees in  
2 this county, those same trees that filter pollutants, provide habitat, attenuate storm  
3 water, create beauty and shade for our fevered heads, and contribute so much to a  
4 quality of life that makes us want to live here, are imperiled every day we wait for  
5 comprehensive legislation. Thank you.

6  
7 Council President Leventhal,  
8 Thank you. Ms. Madsen.

9  
10 Karen Madsen,  
11 Hi, I'm Karen Madsen, speaking today for the Montgomery Sierra Club. A number of us  
12 have wondered lately if our '92 forest conservation law has adequately protected trees  
13 in the county. Based on our loss of forest cover, we may be overdue in correcting or  
14 clarifying vague language and shoring up gaps in this law. We see 45-06 as another  
15 step toward protecting our remaining tree cover, and it's certainly a step that addresses  
16 an urgent need; however, the bill is just one piece of a very large and complicated  
17 puzzle prompted by an individual case. The Sierra Club supports the bill's clear  
18 definition of a champion tree, but we hope this will lead to more broad-scale protection  
19 of mature trees, i.e., specimens and what park and planning labels as significant trees  
20 and forest conservation plans. We encourage staff to add a provision for adjacent  
21 properties where the critical root zones of champions and other large trees might be  
22 damaged by construction. We find that all too often trees fail as a result of adjacent  
23 construction activities, so a law should be strengthened to close that gap. Rather than  
24 proving the forestry law one bill at a time through protection of one tree or a category of  
25 trees at a time, we hope the champion weeping cherry tree in Bethesda will help bring  
26 the big picture into focus. Conserving our green infrastructure deserves a more  
27 comprehensive approach than we've been taking. Perhaps this will be one of the first  
28 challenges for the Forest Conservation Advisory Committee that will be established in  
29 the near future. Up close today by pointing out that my, my daughter, Julia, is here  
30 today because of her interest in saving trees -- she's the person behind, the little person  
31 wearing pink back there somewhere.

32  
33 Stand up. That's fine.

34  
35 Karen Madsen,  
36 Yes. Yes. In recent weeks, Julia has witnessed the destruction of an urban forest that  
37 she's enjoyed in our neighborhood since she has been able to walk. Julia and her  
38 friends have contributed the artwork attached to your copies of my testimony. This  
39 reminds all of us that very often we make decisions not for ourselves but for our children  
40 and our grandchildren. Our kids don't want to grow up in a barren and overcrowded  
41 county. We're confident this council will vote wisely on this bill. And we hope that you'll  
42 consider the big picture when it comes to preserving green space. Thank you.

43  
44 Council President Leventhal,  
45 Thank you very much. Ms. Floreen.



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1  
2 Councilmember Floreen,  
3 Thank you. Gwen, you're going to be with us Thursday?

4  
5 Gwen Wright,  
6 Yes, I'll be here.

7  
8 Councilmember Floreen,  
9 Good. I am -- right now are there any rules about champion trees? I mean we have  
10 them, they're identified.

11  
12 Gwen Wright,  
13 They're in the section about exemptions, which is farther down in the law, which I think  
14 is what's been confusing to some folks. If the law is applicable, then you decide if the  
15 property needs to file forest conservation plan or is exempt from filing a forest  
16 conservation plan. And it says that a property is not exempt from filing a forest  
17 conservation plan if they have a champion tree. But you first have to go to see if the law  
18 is applicable at all. Today the law is not. This change would make it applicable.

19  
20 Councilmember Floreen,  
21 Make it applicable to everything?

22  
23 Gwen Wright,  
24 Right.

25  
26 Councilmember Floreen,  
27 But it applies -- under the forest conservation law right now, it applies to particular  
28 property that contains the tree?

29  
30 Gwen Wright,  
31 No. Right now the forest conservation law is applicable primarily to two kinds of private  
32 property, either private property that's going through something like a subdivision, a site  
33 plan, a project plan, or some other development approval, or alternatively, the law is  
34 also applicable to properties that are larger than 40,000 square feet and have to get  
35 either special exception or a sediment control permit.

36  
37 Councilmember Floreen,  
38 They apply to particular property that contains whatever that's of interest.

39  
40 Gwen Wright,  
41 No. That's not the way the law is written today. It will be if that goes through.

42  
43 Councilmember Floreen,  
44 My question is this. The way this is written or the language you proposed addresses  
45 the relationship of adjacent properties. You've raised that -- the park and planning has



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1 raised that in its memo. And I guess I'd like to hear from you on Thursday as to how  
2 this fits in with that. Looking at your language and the picture we've been provided with,  
3 it suggests that -- like a person across the street, if we had this 140-foot rule, might be  
4 obligated to do something with respect to a property that they had no ownership interest  
5 in.

6  
7 Gwen Wright,  
8 Yes. I mean the way the law --

9  
10 Councilmember Floreen,  
11 How is this provided?

12  
13 Gwen Wright,  
14 Yeah, the way the law is written today there is no limit, 140 feet. It's any change that  
15 might endanger a champion tree. Now, that change could be two or three lots away.

16  
17 Councilmember Floreen,  
18 Oh. Okay.

19  
20 Gwen Wright,  
21 And so what we're trying to do is narrow that a little to say it's anything within 140 feet,  
22 which is the critical root zone of the largest tree we have -- champion tree we have in  
23 the county.

24  
25 Councilmember Floreen,  
26 Okay. Well, we'll get into that

27  
28 Gwen Wright,  
29 But there is still an issue of how you then enforce that law if it's not the person doing the  
30 work --

31  
32 Councilmember Floreen,  
33 Yeah.

34  
35 Gwen Wright,  
36 -- who is actually coming in.

37  
38 Councilmember Floreen,  
39 Okay. And so if you could be prepared to talk about that. And it would be park and  
40 planning, not DEP or DPS?

41  
42 Gwen Wright,  
43 At this point, the entire Chapter 22-A is administered by park and planning.

44  
45 Councilmember Floreen,



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1 Okay.

2  
3 Gwen Wright.

4 So, yes.

5  
6 Councilmember Floreen,  
7 You don't need them there.

8  
9 Gwen Wright,

10 No.

11  
12 Councilmember Floreen,  
13 Okay.

14  
15 Gwen Wright,  
16 So we would need to coordinate with DPS to flag these properties, but I don't think  
17 that's a problematic thing to do.

18  
19 Councilmember Floreen,  
20 Well we might want to arrange for them to join us because they are going to have some  
21 implementation rule if there is a question of who is in charge, don't you think.

22  
23 Gwen Wright,  
24 Yeah, I sort of had envisioned it as it's clearly 150 or so champion trees, and we have  
25 14-foot radius around the tree that we would be essentially sending DPS a list of  
26 addresses.

27  
28 Councilmember Floreen,  
29 Okay.

30  
31 Gwen Wright,  
32 And we'd be telling them, If you get a building permit on any of these addresses, a little  
33 flag should pop up that this falls under the forest conservation law, and you need to  
34 send the permit immediately to park and planning. So they certainly would be involved  
35 in the implementation, but I think it's more of a mechanical type involvement.

36  
37 Councilmember Floreen,  
38 Okay. Okay. So we won't need them then. Okay. Thank you.

39  
40 Council President Leventhal,  
41 Well, if there are no other questions or comments, we thank you all for testifying.  
42 Agenda Item 12 is a public hearing on a supplemental appropriation to the Montgomery  
43 County public school's FY '07 operating budget for the aging school program in the  
44 amount of \$360,171. We are going to vote. There are no witnesses. The source is a  
45 state grant. Mrs. Praisner has moved approval and Mr. Andrews has seconded it.



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1 Those in favor of appropriating the state grant for the aging school program will signify  
2 by raising their hands. It is unanimous among those present. And we are now going to  
3 welcome our good friends from the planning board, who will please come forward to  
4 present their semi-annual report. We call upon the planning board. Please come  
5 forward. We're calling on the planning board. Greetings, Mr. Chairman.

6  
7 Royce Hanson,

8 Thank you, Mr. President. I am joined by commissions Wellington and Robinson and  
9 directors Bradford and Hamer. With your permission, I'd like to spend a few minutes  
10 just summarizing a few points, some from the semi-annual report and then some other  
11 points that I thought I might use this opportunity to make. We're delighted to be here.  
12 This is a semi-annual report for the board and staff, and a bimonthly report from me.  
13 The report itself focuses on the parks department. I understand that was the council's  
14 direction for this report, and we're delighted to do that. And it provides, among other  
15 things, a matrix that shows the allocation of work effort across two principal programs:  
16 The stewardship of natural and cultural resources and park services. And each of these  
17 programs is then detailed and broken out by operating division and by geography.  
18 There is the third table that presents work years budgeted and capital improvements  
19 program. What we have done at this point is simply to allocate work years to programs.  
20 That's a first step toward preparation of the fiscal year '08 budget in which we will  
21 convert work years into dollars so that it will be possible for you to see both the effort  
22 and the cost of each of the programs we have. Page 15 identifies several significant  
23 issues that emerge from the analysis of the programs, and I want to just touch on a few  
24 of them here. One of the things that came through to the board as we looked at this  
25 was we are currently allocating only 4% of the total work effort of the department to its  
26 management and administration. We have 31 work years devoted to managing  
27 approximately 800 work years of other work and 33,000 acres of park land, which  
28 contains hundreds of buildings, fields, and sites, and other facilities. Only four work  
29 years, think of all of that property, only four work years are devoted to managing the  
30 property. By any standard this is insufficient. In a system as extensive as ours it's far  
31 short of the level needed to provide adequate management analysis, workforce  
32 development, supervision, and quality control. So it's probably a good guess that the  
33 board will be coming to you in the budget, talking about these things again. About a  
34 fourth of the work effort of the department is devoted to stewardship of natural and  
35 cultural resources. And within that program, only 8%, or 69 of all the work years are  
36 devoted to the operation of all of our nature centers, public gardens like Brookside, and  
37 so on. This leaves 16% of the work effort for stewardship of all of our land and natural  
38 resources, including only 12 work years devoted to 120 miles of natural surface trails,  
39 which are really a terribly important component of the parks system. Now the  
40 consequence of all of this distribution of effort is that we have not been able to establish  
41 and operate an effective program of preventive maintenance. We have not expanded  
42 our stewardship capacity in pace with the expansion of the system and its facilities. And  
43 some of our most valuable and irreplaceable resources, especially historic sites and  
44 buildings, cannot be adequately protected and interpreted under these circumstances.  
45 Our principal line of business, measured by what we actually do -- I often ask people,





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1 you know, if people from Mars descended and asked, you know, what business are you  
2 in, we would say probably we're primarily in the business of providing programming and  
3 maintaining recreational facilities because that's where most of our work effort goes.  
4 There ought to be a better balance between this function and stewardship. It doesn't  
5 mean we're doing too little or too much on the services. It just means given the growth  
6 of the system over time and given the new kinds of demands that the system faces with  
7 a growing and far more diverse population, we need to look at this system very  
8 realistically and decide what we need to do and how best to do it. So you can expect to  
9 see an increased emphasis on stewardship of park resources and on better service to  
10 under served populations when we bring you the budget. We expect to initiate closer  
11 programmatic relationships with county departments of recreation, health and human  
12 services, and public schools. An example is an initiative that I mentioned in a letter to  
13 the President Leventhal last month, which we're tentatively calling no child left inside.  
14 The idea is to work with departments and realize that the park system provides an  
15 extraordinary resource in this county for dealing with the problem of inactive living by a  
16 lot of people. The parks -- one of the other things I've mentioned is that the parks have  
17 always been and remain one of the fundamental elements of Montgomery County's  
18 economy and its quality of life. When Berkley created the park and planning  
19 commission almost 80 years ago, he had the insight that a successful county needed an  
20 excellent school system 80 years ago. You needed an excellent school system, you  
21 needed an honest and efficient police force, and you needed a great park system.  
22 Those things remain to this day important fundamentals of high quality of life. Now one  
23 of the key issues for the future of our system will be the means of funding it. Financing  
24 further expansion of land and basic recreational facilities is the easy part. But every  
25 time we open a park, every time we build a field, every time a recreation center is  
26 created, we incur a continuing operational obligation. I know the council is aware of  
27 this, but I just want to emphasize it. Now, while we expect most of the discussion with  
28 you this afternoon will be focused on parks, the report also summarizes some of the  
29 issues confronting the planning department. And I just want to touch on a few of those  
30 before turning this over to Mary Bradford, who will help us through the discussion of the  
31 first part of the report. I know that the development of rules and procedure is an  
32 important concern of the council. We have rules drafted on the procedures for the  
33 conduct of planning board hearings. The board will be working those over tomorrow.  
34 We have held one public hearing on them. I think we'll send them out for another round  
35 of comments, and by the end of this month or the first meeting of next month, we should  
36 be able to adopt them and send them on to the council so that they'll be here the first  
37 day that the new council is sworn in. We'll follow the hearing rules with the creation of a  
38 development manual, which will be the regulations for the processing of applications.  
39 And the idea is to make this a web-based manual, which applicants can download to  
40 know exactly the kind documentation and information that they need to provide to  
41 produce a complete application, and it will also be visible and available for any member  
42 of the public to look at and see where an application is in the process. As we work on  
43 the reforms that you made in the zoning ordinance and subdivision regulations a few  
44 months ago, we're running into some problems that we will bring to you. I just want to  
45 give you an advance early warning. We're finding that some changes that are -- now



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1 must come to us under the consent calendar are beginning to produce problems, in that  
2 such things as changing the type of bench used in an open space area or pavers or  
3 particular plantings or moving a loading dock for a business establishment a few feet,  
4 are -- that some builders, it appears, are beginning to go ahead and make these  
5 changes and be willing to suffer the consequences, even a fine, in order to get them  
6 made at a time that's appropriate to make them in development process. We can  
7 handle most of this, I think, prospectively with the way in which we craft conditions and  
8 leave certain de minimis changes to approval of staff. Be we have a great number of  
9 site plans that are already out there. And we are probably going to spend an awful lot of  
10 unnecessary time dealing with technical violations that represent changes that  
11 everybody wants to see made because they improve the project. And so we will come  
12 back to you with some language we hope will correct that problem. We've executed a  
13 memorandum of understanding with the Department of Permitting Services, and we're  
14 expecting -- and that became effective the 1st of October for inspections. We are still  
15 working with the department to provide for the inoperability of the Hanson systems that  
16 make it possible to track developments through the building permit and inspection  
17 process. Our most urgent problem in development review is staffing. Development  
18 review division is still drinking out of a fire hose, and that's just not a healthy situation.  
19 We've made substantial improvements in eliminating some of the bureaucratic barriers  
20 to recruitment. But that is still lagging far behind where we would like to do it. We're  
21 having substantial problems in persuading qualified applicants of the pleasure of  
22 working for the compensation offered in the serious physical limitations of the  
23 Montgomery regional office and under the unrelenting scrutiny of applicants and their  
24 adversaries, when they can go to work for a private consulting firm and only work for  
25 one client. In addition to recruiting for regular employees, Miss Hamer is now looking  
26 for consultants that may be able to help us overcome the backlog that we have. This  
27 brings me to an unhappy fact that I had not anticipated when you sentenced me to  
28 another 4-year term. We need to get out of the MRO, and the sooner the better. It's  
29 been occupied -- it's now occupied by about 50% more people than it was designed to  
30 hold. Although we have moved 30 employees into rented space across Georgia  
31 Avenue, if we hire the 23 and are successful in filling 23 vacancies we have, we'll be  
32 about back where we were before they moved out. And even with them out, the space  
33 is too crowded. Our public space is also -- and equipment for it is pretty primitive. We  
34 will have a report on Silver Place later this month. And we'll have a pretty good idea  
35 how we should proceed from there. But whatever the result of the proposals that we're  
36 getting from three different firms, I expect to be back to you very shortly, asking for both  
37 either/or, probably both, supplemental funding to accelerate the construction of a new  
38 headquarters and possibly funding for rental space and certainly for the repair and  
39 renovation of some serious equipment failures and other problems that we have in the  
40 MRO. So that's the good news. In general, the vacancy problem is worse than we  
41 thought. We're not unique, but about 30% of our workforce will be eligible for retirement  
42 in the next several years. So filling vacancies and providing succession planning for  
43 some of the key people is going to be one of our most urgent responsibilities. We need  
44 to consult with you on work programs. I've just received a letter from three of you  
45 asking for a modification in a work program. This looks like it's eminently doable, but I





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1 want to make sure you got two more votes before we -- before we move in that  
2 direction. I'm going to ask the council as we deal with work programs, to be sure that  
3 you indicate your preferences to us. And if it involves a shift of resources, the board will  
4 be asking you, "Okay. Do you want to fund the additional work or do you want us to  
5 delay or drop another item of the work program?" I'd like to also emphasize the need to  
6 exercise discipline in the introduction of zoning text amendments that respond to  
7 individual situations. I'm pointing fingers.

8  
9 [INAUDIBLE]

10  
11 Royce Hanson,  
12 That's right. We expect to propose a means of comprehensive revision and  
13 modernization of the zoning ordinance. But while that's being --

14  
15 [INAUDIBLE]

16  
17 Royce Hanson,  
18 That's right. But we hope that some of these amendments, which can charitably be  
19 described as efforts to spot zoning by their originators outside the council, can be  
20 staunch. Now, some text amendments are going to be necessary and desirable of  
21 course. And one thing that we might suggest is that -- is that those are always good.  
22 But we suggested might be useful to the council, and certainly in terms of the impact on  
23 the work of our staff and your staff actually in analyzing these is that maybe we set a  
24 period once or twice a year for the introduction and consideration of such amendments  
25 much like you do with the tenure water and sewage plan. So that we've accumulated  
26 them, we can look at them in context and to see to what extent are contradictory or not  
27 very workable and I think would probably facilitate the process. And finally, we ask you  
28 to consult with us about the establishment about the advisory committees with  
29 mandates that overlap the responsibilities of the planning board. And while some of  
30 these measures are well intended and even desirable and designed to address real  
31 problems, we think we may be of assistance to you in reaching an approach that  
32 doesn't -- you know, that overcomes the foreseeable problems. The unforeseeable  
33 ones we'll worry about later. That concludes my remarks, Mr. President. And if it is  
34 your pleasure, I would like Mary Bradford to carry on here for a minute with the report.

35  
36 Council President Leventhal,  
37 Okay. Well, we look forward to hearing from Mary. But before we do that, Mr.  
38 Chairman, we want to thank you for stepping up to these challenges. We appreciate  
39 overview. It's always a pleasure dealing with you. You've been very responsive to the  
40 communications that I've sent to you and we appreciate your leadership and appreciate  
41 the work of the commissioners as well, who we know are amply paid for their efforts.  
42 Mary.

43  
44 Royce Hanson,  
45 I hadn't heard that.

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1  
2 Unidentified,  
3 We know the psychic income for jobs.

4  
5 Mary Bradford,  
6 Hello, Mr. President and members of the council. I have very little to add to what the  
7 chairman has said. You all have a copy of you semi-annual report, this time focusing on  
8 the parks with a section on planning at the end. And so I thing Farroll Hamer will be  
9 able to talk about the planning issues. And if you want we can go through the parks  
10 portion first. I really have very little to add, as I said, but we did learn a lot from the  
11 exercise. I noticed if you see in the document in front of you, we tried something  
12 different this time. We tried to copy some of the elements that the council reacted very  
13 positively too in the last semi-annual report were planning, laid out its work program so  
14 you could see where the work years were going. And it's much more difficult to do that  
15 with respect to parks because first of all we had to decide how we would categorize all  
16 the things that we're doing in a way. Some things overlap. Obviously some things may  
17 be left out, but we did the best we could. It started out small with a steering committee  
18 looking at it, and as people got more involved in the effort, it got bigger and bigger as  
19 park managers got involved and people from all parts of the organization. So this is  
20 really -- this really, the detail in here really was staff-driven and came up. I tried to just  
21 pop my head in from time to time to see how everybody was doing and look at it at the  
22 end and summarize my summary pretty much on Page 15, which is the -- what we  
23 learned from the program, which was kind of interesting in a way. I don't think we had  
24 really looked at how the parks were operating. We knew in our bones that something  
25 was wrong, that we were getting lots of areas, and we weren't able to keep up with the  
26 maintenance on them and that there were operational issues, and that there were areas  
27 that were clearly neglected, and trying to figure out. And there were some things that  
28 we were doing very, very well. And when you break it down by the programs you  
29 provide and the services that you do, and then you see the allocation of where the  
30 money has come in in order to support the department in the past, you can see where  
31 the kind of meshes with that gut feeling you have about how we're doing and where  
32 we're going, only now we have something that we can use as a measuring tool to make  
33 sure that we are, in fact, putting the man years and the resource dollars where the  
34 needs are. We also wanted to build on some of the old planning documents. When I  
35 first came in seven months ago, when I first came into this job seven months ago, I read  
36 a lot of the strategic planning documents and the -- on everything from historic  
37 resources to natural resources to the one I can't pronounce the LPPRP PROS plan.

38  
39 Unidentified  
40 The new PROS plan.

41  
42 Mary Bradford,  
43 The new -- the one without the vowels. The new PROS plan, right. I mean I was  
44 reading all this. I mean the plans are great. The plans are great. I'm really very good  
45 at planning I must say. But it was that next step of getting it into the long term horizon



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1 of how we execute those plans and how we get the dollars and how we match up what  
2 we say we're going to do with what we do. So at the very outset, that's my intention.  
3 You know, when I come to you, I know we're looking back a year, but as we come  
4 forward in the '08 budget I think you can find it informed by what we found out in this  
5 process as well as what we said we were going to do and set out sort of a long-range  
6 plan with your help on how we're going to get there from here. So with that, I would just  
7 like to be available for questions you may have about specifics. I will mention that the  
8 program element forms which follow behind the matrices is our first shot at them. Some  
9 of them have sort of Xs in there instead of real numbers and we're still kind of working  
10 our way through as we're trying to figure it out. It is a first time for us to do that. And  
11 the other thing I might say so I wouldn't hold in there to anything particularly as we work  
12 our way through, we'll continue to refine it. I will say that the matrices, there were so  
13 many ways you could slice what we do in parks. We decided to slice it by what  
14 programs we were doing and whether we thought there was more stewardship and  
15 natural cultural resources or whether there were more services that we'd provide. But  
16 you could also slice this by geography. Here's how much we're doing in this region.  
17 Here's how much we're doing in this part of the county. And you can also cut it any  
18 other ways. We've tried to do some sort of sample matrices passed the first one. We'll  
19 talk about here's where we do it in our functional areas. Here's how much we're  
20 spending in park development rather than how much we're spending on tennis courts  
21 and so forth or how much we're spending on things in this region. So there's lots of  
22 ways you could slice one project and show it in different ways. And we'll work through  
23 that and maybe develop some workable matrix with you that raises information in a way  
24 that serves both of us as well as it can.

25  
26 Council President Leventhal,  
27 Good. Thank you very much. Let's hear from Ms. Hamer, and then we'll take questions  
28 from the entire distinguished group.

29  
30 Farroll Hamer,  
31 I don't really have any prepared remarks. Good afternoon, Mr. Chairman and members  
32 of the council -- Mr. President. The report pretty much includes all that I have to say. I  
33 just would say that In addition to the work that we are -- our regular work, the staff has  
34 been focused very much and been working very hard on a variety of the management  
35 improvement efforts. We've been working on recruiting. We've been working on  
36 violations -- that's pretty much cleared up -- the rules of procedure and also the  
37 accompanying development manual that Chairman Hanson talked about. That  
38 information is pretty much in the report, and I'm happy to answer questions.

39  
40 Council President Leventhal,  
41 Very good. There are a lot of questions, and we appreciate the two directors for  
42 stepping up to the challenges that each of you have faced. We know it's an agency in  
43 transition and things are flying at you all the time, including floods. So we really do  
44 appreciate the able leadership that we've gotten over the course of the last several  
45 months. And there's a lot of questions. Chairman Silverman.



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1  
2 Councilmember Silverman,

3 Thank you, Mr. President. Thanks very much, Dr. Hanson, for stepping up to the plate,  
4 and I'm only reminded slightly of a comment that Jerry Weast made after he was here  
5 about six months, which was that he actually had no idea what he had walked into other  
6 than the fact it was a very large system and it had a great reputation, but as he started  
7 to peel the layers of the onion and that's obviously what you're going through. And we  
8 appreciate your leadership, all the commissioners and Mary and Farroll in particular. I  
9 just want to sort of zero in on the vacancy issue and understand what the  
10 consequences are. I'm sorely tempted to say that by the time that the next council and  
11 county executive come into place that the goal of reducing growth in this county may  
12 have been accomplished without passing any legislation simply by the inability to move  
13 anything through the process regardless of whatever happens in the economy. And I'm  
14 just trying to understand specifically, and maybe this is further details you can provide at  
15 a later point, but you've got 27 vacancies in the department. I don't know what that  
16 means in terms of -- I'm sorry, as of June 22nd now you've got 24 and you've got a few  
17 offers out. I'm trying to understand what these folks do. Are these frontline  
18 development review people that we're talking about? Are they -- I don't know if you  
19 want to bring Rose into this or not. I want to understand what the positions are and I'd  
20 like to understand, more importantly, what the consequences are of those positions for  
21 somebody who's trying to go through the process, regardless of whether there is some  
22 gas station or there's some, you know, mixed use project in the downtown that we think  
23 is part of our smart growth effort.

24  
25 Farroll Hamer,

26 Yeah, I think I can answer that. The largest ratio -- the largest percentage of vacancies  
27 is in development review. The rest of them are scattered through the department and  
28 are at fairly normal levels. But the highest level is still in development review. And  
29 frankly a couple of things have happened. One thing that's happened is -- I mean  
30 basically that's still caused by the fact that we got ten new positions, and we have not  
31 yet filled those positions. We started out by working very hard at clearing away some  
32 bureaucratic hurdles that we had about filling vacancies in general. We have done that  
33 and we have not quite reaped the fruit of that yet, but we're on the verge of making even  
34 more offers. We've done a huge number of interviews. We are getting -- we're posting  
35 ads and getting resumes much more quickly than we were before. We're interviewing  
36 more quickly and we're on the verge of having gone through a lot of interviews and  
37 making a lot of offers more or less simultaneously. The other thing that's happened is  
38 there is a fairly large backlog in site plans. There's a number of plans that have not  
39 been assigned to anyone because there's no one to assign them to. And what I have  
40 been doing is interviewing consulting firms. It's not easy to find a consulting firm. You  
41 can't look locally in Montgomery County because they're all engineers who work here  
42 and there's conflicts of interest. I found consulting firms in Annapolis, Baltimore,  
43 Hagerstown, and Westchester, Pennsylvania. I'm interviewing them, and I'm hopeful  
44 they can come onboard fairly quickly assuming that we can sign contracts and come to



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1 a meeting of the minds about consulting dollars, et cetera, and have them help us start  
2 to whittle away at the backlog before we even have new people hired.

3  
4 Royce Hanson,

5 Also, one thing I had mentioned is that it is the -- the kind of people that Ros and Farroll  
6 are trying to hire in development review are a unique -- have a unique set of skills and  
7 experience. It is extremely valuable to have people who have some private sector  
8 experience in coming into review development projects for the private sector. They  
9 need some -- need strong urban design qualities. We're competing with not only other  
10 public agencies but also competing with private agencies. Farroll just brought me a  
11 brochure from a private consulting firm in Florida, I think it was.

12  
13 Farroll Hamer,

14 See that was a public agency.

15  
16 Royce Hanson,

17 It was public agency.

18  
19 Farroll Hamer,

20 It was a public agency.

21  
22 Royce Hamer,

23 Which was a public agency in Florida looking for the same kind of people we're looking  
24 for. And they were offering a \$30,000 signing bonus to be paid out over a few years.  
25 So the competition is really tough in this area. So it may be that, particularly in the short  
26 run, we will need to use some consultants if we can find consultants who have no  
27 business activity in Montgomery County.

28  
29 Councilmember Silverman,

30 How many vacancies are there in development review?

31  
32 Rose Krasnow,

33 At the moment there are three site plan vacancies, two subdivision vacancies, and three  
34 tech team vacancies.

35  
36 Councilmember Silverman,

37 Okay. So that's eight?

38  
39 Rose Krasnow,

40 Yes. We've filled a site plan position. We've filled a division position and tech team  
41 position.

42  
43 Councilmember Silverman,

44 But when you talk about 24-- then I'm confused about what you're referring to. The  
45 packet on page 90 talks about 24 vacancies.



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1  
2 Royce Hanson,  
3 These are of other departments.

4  
5 Farroll Hamer,  
6 Right, the entire planning department I believe.

7  
8 Royce Hanson,  
9 The entire planning department.

10  
11 Farroll Hamer,  
12 Environmental planning has some. Transportation --

13  
14 Councilmember Silverman,  
15 Okay. So in other words I thought you -- when you said many of them, I thought you  
16 were going to -- like it would be like 19 or 20. But it sounds like there's 8.

17  
18 Royce Hanson,  
19 Yes. Yeah, we filled three so there were 11 -- well almost --

20  
21 Councilmember Silverman,  
22 And that factors in the positions that are technically vacant because -- or in other words,  
23 we gave you the money through

24  
25 Royce Hanson,  
26 Right.

27  
28 Councilmember Silverman,  
29 -- the supplemental appropriation process, that whole appropriation process. But you  
30 haven't been able to fill all of those.

31  
32 Royce Hanson,  
33 Right.

34  
35 Councilmember Silverman,  
36 So we'll talk about aid --

37  
38 Royce Hanson,  
39 Okay. There, the other thing to remember is that these are the people in development  
40 review who are going to be the people to whom projects are assigned and work on  
41 them. Now the vacancies in environment and transportation and community-based are  
42 also important in the review process so it's --

43  
44 Councilmember Silverman,  
45 Remind me, how many people are in development review?





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1  
2 Rose Krasnow,  
3 When we're fully staffed, we'll have 38 people.

4  
5 Councilmember Silverman,  
6 So you're down 8.

7  
8 Rose Krasnow,  
9 Yes, we are.

10  
11 Councilman Silverman,  
12 You're short 8 out of 38, give or take.

13  
14 And where it truly -- I mean there's no question of the fact that we still have three site  
15 plan vacancies is what's been hurting us the most. We basically have three review -- I  
16 mean a supervisor and two reviewers at the moment. We should have a supervisor and  
17 five reviewers. And so when you consider the number of project plans we've gotten and  
18 we have been getting in plans -- hate to say it -- that are beating the December 1st  
19 deadline for workforce housing so those are coming in now.

20  
21 Councilmember Silverman,  
22 And reviewed in two years.

23  
24 Rose Krasnow,  
25 You would see that we have 11 project plans who we haven't assigned to a reviewer at  
26 this point.

27  
28 Councilmember Silverman,  
29 Sure. Is -- how are you finding the caliber of -- I mean you sort of were alluding to this I  
30 think, Royce. So I gather you're not looking -- your preference is to not to just hire  
31 somebody who just got out of, you know, some -- just got their masters or whatever in  
32 plan -- planning school, you know. I hate to use that term, but you know, that you'd like  
33 to have somebody who's got some experience. What are you find -- I mean I  
34 understand the competition aspect with public and private entities. I'm just trying to  
35 understand how you're seeing Montgomery County fare in terms of a willingness of  
36 people to work. One of the concerns that I think all of us had with everything that's  
37 transpired in the last year is the ability to recruit and retain, you know, employees,  
38 whether or not they want to come to work, you know, at park and planning. And I  
39 wanted to get a sense about -- I mean saying you have 112 resumes sounds like a  
40 goodly sum, but on the other hand, it's like any job application process, you can get  
41 have a hundred resumes and take a look at it and say, my God, there's only five people  
42 that are even remotely qualified for this. So what's your sense?

43  
44 Rose Krasnow,



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1 Well, you're absolutely right, and I can't stress enough how essential it has been to  
2 break down some of the barriers that Ms. Hamer was talking about in terms of I do now  
3 see all the resumes that come in. And some of them, because of that, I mean we had  
4 someone just yesterday -- a resume came in for a planner, looking actually to be a  
5 planner coordinator. And when I look what this person had done was event planning  
6 Had absolutely no planning experience.

7  
8 Councilmember Silverman,  
9 Event planning.  
10 (laughing).

11  
12 Rose Krasnow,  
13 So you're right. You can't go by --

14  
15 Councilmember Silverman,  
16 The Internet is dangerous.

17  
18 Rose Krasnow,  
19 But another thing -- and I think in the beginning of this process when we first got these  
20 positions last February thanks to the supplemental from the council, we weren't getting  
21 the word out of the nature out of the job. In other words, it's a very complex job and so  
22 some of the resumes we were getting really weren't appropriate. We weren't getting the  
23 ads in the right place, but now we are. We're advertising, you know, in ASLA and APA.  
24 And in the last month we have seen really a significant improvement in the type of  
25 resumes. People are aware of the issues we've gone through and I think actually are  
26 looking forward to the challenge. And we seriously are about to make additional offers.

27  
28 Councilmember Silverman,  
29 Is there anything that prevents the -- I wasn't talking about the magnitude of, you know,  
30 signing bonuses, but is there anything that prevents you from offering that or some  
31 other variable?

32  
33 Rose Krasnow,  
34 The budget.

35  
36 Councilmember Silverman,  
37 No, I understand the budget issue. I just mean is there anything legally that prevents  
38 you from --

39  
40 Farroll Hamer,  
41 Well, we have to operate in the bi-county structure. And I think that puts significant  
42 limitations --

43  
44 Councilmember Silverman,  
45 Well, that's what I'm asking.





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1  
2 Royce Hanson,  
3 The bi-county structure is a problem --

4  
5 Councilmember Silverman,  
6 Yes, there is a problem.

7  
8 Royce Hanson,  
9 There's a problem. There's been a problem, I think we are about to overcome. I had a  
10 conversation about this yesterday in the executive committee, and that is the problem of  
11 offering salaries to incoming applicants above the median. That has in the past taken --  
12 talk about a bureaucratic problem. It's taken about a three-step process in which the  
13 human resources division in the central administrative services had to look at the  
14 classification of the position, then it had to have the approval of the director of human  
15 resources, and ultimately it had to have the approval of the executive director. My  
16 understanding is that this process on the fast track, might take three weeks, by which  
17 time an applicant that you want has already had three other job offers and accepted  
18 one. We're trying -- I think we have reached an understanding that that is not a useful  
19 process and that one of the things that I've been stressing is that in bringing in new  
20 people laterally, it may be necessary in some cases to pay more than has been the  
21 salary levels of comparable people already in the organization. We will need in order to  
22 maintain equity to come back with a compression study and an adjustment to pay  
23 scales to make sure that in the process of bringing in new people we're not driving out  
24 valued employees so. But the market has changed. And generally, the step increases  
25 which people are eligible in the public service do not keep up with the entry-level  
26 salaries that are successfully demanded of people coming in.

27  
28 Councilmember Silverman,  
29 Remind me again -- everybody in development and review, those are developer-fee  
30 paid positions?

31  
32 Rose Krasnow,  
33 They are basically in that we collect fees that we hope will cover, but we didn't project  
34 that it would cover a hundred percent.

35  
36 Councilmember Silverman,  
37 No, I understand. That's a discussion for -- you know, that I know we've had in the past.  
38 What about these other -- what about the other positions that are also involved in the --

39  
40 Rose Krasnow,  
41 The ones that are providing development review input are also being covered under the  
42 fees. When we calculated out the fees, we considered all the hours from people from  
43 environmental, transportation and would be paid

44  
45 Councilmember Silverman,



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1 Okay. Well, you know, again, we sort of had this discussion when we talked about, you  
2 know, fee setting and, you know, the marginal costs associated with the fees, you know,  
3 still in my opinion provide potential opportunity depending on what kind of bureau  
4 bureaucratic flexibility you've got. I mean I hear you loud and clear. I mean it's just -- I  
5 mean it's great that you moving in the direction of trying to look consultants to fill the  
6 gap here. Hopefully this is a -- I wouldn't even call it a short-term situation. But by  
7 general definitions, you know, a six-month or year scenario or whatever so that things  
8 can sort of move through in a --

9  
10 Royce Hanson,  
11 I think that we have to think of the consultants as a stop-gap operation.

12  
13 Councilmember Silverman,  
14 Yeah.

15  
16 Royce Hanson,  
17 It's really important in development review to have institutional memory.

18  
19 Councilmember Silverman,  
20 Right.

21  
22 Royce Hanson,  
23 And so you don't want to rely on consultants for any long period of time.

24  
25 Councilmember Silverman,  
26 Right. We've got a short-term situation. Okay. Okay. Great. I mean I'll look at the  
27 other stuff related to parks later. Thanks.

28  
29 Council Vice President Praisner,  
30 Ms. Floreen.

31  
32 Councilmember Floreen,  
33 Thank you. Royce, on the board, you sent us a letter last month that had a list of sort of  
34 top issues for you, and I was wondering if you had a chance to sit down with the board  
35 and sort of come up with your top ten list? This is sort of how I looked at it from your  
36 perspective.

37  
38 Royce Hanson,  
39 Right.

40  
41 Councilmember Floreen,  
42 But you hadn't -- I think you had indicated that you were -- you know, that this is your  
43 cake.

44  
45 Royce Hanson,



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1 Right. We have since had discussions in the board about many of these things. We're  
2 not any way through that discussion yet, because we're using that as part of our budget  
3 discussion. We've got budgeting sessions planned now for the next several weeks and  
4 where we'll come to resolution. My colleagues may want to add anything here,  
5 Meredith or John.

6  
7 Meredith Wellington,  
8 Well, basically what Royce has just said is correct. You saw that the letter is a full  
9 exciting list of things, and, yes, we do need to pare it down. And we are -- we've  
10 already had -- you may -- well, I don't think anyone listens in on our roundtable  
11 discussions, but you could if you wanted to in the afternoon. And that's where we  
12 brainstorm and talk about these ideas, and we will be talking about it more in the  
13 budget.

14  
15 Royce Hanson,  
16 It is exciting discussions for people who are tired of watching paint dry.

17  
18 Meredith Wellington,  
19 Well, when the paints dry --

20  
21 Rose Krasnow,  
22 Oh, I don't know. When you have a gap --

23  
24 Meredith Wellington,  
25 Well, for us it's exciting. And we do think that --

26  
27 Councilmember Floreen,  
28 There's always the council meeting as an alternative. You need your own channel so  
29 people can -- well, did you have anything to say, John?

30  
31 John Robinson,  
32 I would simply add that --

33  
34 Councilmember Praisner  
35 John, your mike's not on, John.

36  
37 John Robinson,  
38 I would simply add that the projects have and concepts have different timeframes, and  
39 so that's one thing that we're still working out as part of a multiyear effort to accomplish  
40 our goals.

41  
42 Royce Hanson,  
43 One of the other things, especially that deal with parks are things that could get started  
44 in the next fiscal year. But as John says, they may have a long timeframe so -- and, in  
45 fact, most of the things in that list are not things that would be expected to be



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1 accomplished in a single year. What we have asked staff to look at for us are things  
2 that really absolutely need to be done, and whether we could do them in one year or  
3 several, when are we going to start these efforts. And also we've asked staff to not  
4 build the budget on the base that now exist, but to really go back and from there point of  
5 view really needs to be done and what it would take to fund that.

6  
7 Meredith Wellington,

8 And I guess I would add that the presentation that the chairman just gave, at least for  
9 this board member, highlights some managerial priorities that are time is of the  
10 essence. And Mr. Silverman just pointed out , vacancies are -- it's essential that we fill  
11 these. We're very aware of that. We're very concerned about how our building is  
12 operating. So while that's not the programmatic agenda and that's not all we're going to  
13 do, and all these will unroll over a period of time. These are things that we're spending  
14 a lot of time on that are very serious to us.

15  
16 Councilmember Floreen,

17 So what I'm hearing and what I think is very appropriate is that, you know, this has been  
18 a period of assessing structural management issues. And I'm actually quite delighted  
19 that you put parks first on the presentation because I don't think we had that previously,  
20 and we tend to slide into the planning stuff more easily. I think it's right to prioritize that  
21 presence and the importance of the park system in your work program. But I guess in  
22 saying if money were no object or staffing were in place, I would like to kind of  
23 understand what you think our top ten priorities should be over time. I know the  
24 replacement of MRO, it sounds to me is kind of number one in terms of a structural  
25 issue for you. On the policy side of things I think it would be helpful for us to get your  
26 feed -- get your feedback on how we can do better job of what we do, and that's based  
27 on your advice. How we can contain our need to be responsive to situations, which  
28 generates text amendments galore and, you know, various efforts to address issues.  
29 How we can work together more collaboratively perhaps so that we can control our --  
30 how we do things so we don't have to go back and revisit it again.

31  
32 Royce Hanson,

33 I think that's very good. We won't be bashful in giving you our list and our priorities.  
34 We've sort of held back from trying to make a priority statement until we have moved  
35 through the discussion with the staff on budget and have better idea of what these  
36 various components are likely to cost and how we ought to fund some of them in.  
37 Clearly the headquarters building from a general operations point of view is really  
38 important. It's even important in the recruiting of staff.

39  
40 Councilmember Floreen

41 Yeah.

42  
43 Royce Hanson,

44 So that's something that we really want to press very hard with you. The --I think that  
45 what we will try to come to you with, both on the parks side and the planning side is



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1 both a sense of what the priorities are. And the other thing I would mention just to pick  
2 up on the point you were making, is to maintain a kind of constant contact with you, with  
3 the council president and with PHED committee and the T&E committee particularly,  
4 that handle the bulk of our work so that we are in continuing discussion and that we can  
5 use these semi-annual meeting then to deal with really big issues that are forward  
6 looking and I would hope that the next one that we have is really concentrated on  
7 forward looking and where we ought to be headed and less on sort of cleaning up and  
8 doing retrospective analysis.

9  
10 Councilmember Floreen,

11 Well, I really think we're all in transition periods right now. And it's a good time to revisit  
12 how we do business, I think, both in terms of adjustments to the rules and how we talk  
13 about your work program. How we use you and park and planning staff so that when  
14 you're not getting a call on a, you know, on a Thursday night or Friday morning saying  
15 you need to be here on Monday to talk about something that's just been introduced and  
16 put on someone's agenda as a, you know, a responsive effort to a community or  
17 whatever kind of request. And I don't know if we can -- how disciplined we can be. But  
18 I think we need to talk to about some parameters for how that can work because it  
19 wears everybody out and certainly is tough on staff.

20  
21 Royce Hanson,  
22 Uh-huh.

23  
24 Councilmember Floreen,

25 And you know what we want to have is -- we don't want to have fragmented policy in  
26 issues. And if you just heard the talk before this on the champion trees, it's a good  
27 initiative with implications. The frustration we face on a pretty regular basis is how do  
28 you deal with the problem in front of you. And if you wait too long to do it in a pure way,  
29 you've waited too long. So that is one of the tensions that we face. I think we face the  
30 challenge of the perfect defeating the good sometimes.

31  
32 Royce Hanson,  
33 Uh-huh.

34  
35 Councilmember Floreen,

36 Or pretty regularly. And that is what forces probably sometimes less than really good  
37 efforts on everyone's part to find a place in the middle. So I would say we need work on  
38 that. I don't have an easy plan, but I'm hopeful that you can help us find a way there,  
39 because I think it's very, very important. Let me just ask you a technical question. Is  
40 the master-plan schedule in here? What we've looked at previously? Is this the same?  
41 There have been no changes? So if there are, I'm not sure what the other request was  
42 that you've received.

43  
44 Royce Hanson,



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1 The request was basically to focus the work in Germantown revision on the employment  
2 corridor.

3  
4 Councilmember Floreen,  
5 Who would that have come from? You know, and I think one of our biggest -- and this  
6 is evidence of one of our greatest challenges, and I think you alluded to this in your  
7 letter to HUD. So I think we've talked about it, is there a way to streamline some of  
8 these processes?

9  
10 Royce Hanson,  
11 Uh-huh.

12  
13 Councilmember Floreen,  
14 Is there a way to get them on the books and focused and in the shop and then out of the  
15 shop in the way that engages the community, uses the right processes, but also gets  
16 everyone to a decision?

17  
18 Royce Hanson,  
19 Yeah. Well, Farroll may have or my colleagues may have some other comments on  
20 this. I would say that master plan -- every master plan, every sector plan has its own  
21 life, in that some are really easy to do and consensus comes early and easily, and  
22 others sometimes that you thought would go smoothly run into conflicts that need to be  
23 worked out. And what I'm hopeful that we can bring you as smoothly and swiftly as we  
24 can, plans that you find complete, well done, on which there is a pretty broad support if  
25 not consensus among the various publics that are involved in it and fit the overall  
26 general policies that you and we are trying to pursue with the plans and that they have a  
27 very good chance of being implemented.

28  
29 [INAUDIBLE]  
30 [LAUGHTER]

31  
32 Councilmember Floreen,  
33 Well, that's actually the --

34  
35 Royce Hanson,  
36 I think that's very much the test of a plan, have we produced something that we can  
37 carry through to execution and one that not only meets the kind of environmental and  
38 design standards that this county expects from its development but that also has an  
39 appeal to the market toward which it is oriented so that it -- so that the private side of it  
40 can actually be done in reasonable period as well. So it's that -- trying to find that  
41 balance. And I guess all my experience with planning in the various places is that the  
42 interesting thing about it is that there are always surprises that one just can't anticipate  
43 until you get into it, and that sometimes makes it a little longer to get here. But I'd rather  
44 do it right than do it fast to be very blunt about it.



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1 Councilmember Floreen,  
2 I guess finally the question about, do we have in this report -- I don't know that we do --  
3 the proposal to redo the zoning ordinance?  
4

5 Royce Hanson,  
6 No.  
7

8 Councilmember Floreen,  
9 That's going to be a budget conversation.  
10

11 Royce Hanson,  
12 Yeah.  
13

14 Farroll Hamer,  
15 You'll find it in the FY '08 budget proposal.  
16

17 Councilmember Floreen,  
18 Okay.  
19

20 Farroll Hamer,  
21 And the work program that goes with that.  
22

23 Councilmember Floreen,  
24 Okay. So we'll take that all up in that content.  
25

26 Royce Hanson,  
27 And that's bounds to be interesting.  
28

29 Councilmember Floreen,  
30 I think so. I like your numbers so far, your proposal. It's page 101. Zones .5, 1, 2, and  
31 3. It's simple, to the point, so it should be an interesting conversation. Okay. Well, we  
32 will obviously be in close coordination on this report in all this. Thank you all for your  
33 very, very hard work over the past months and your continued commitment to what  
34 we're all trying to do. Thanks.  
35

36 Council President Leventhal,  
37 Mr. Knapp.  
38

39 Councilmember Knapp,  
40 Thank you, Mr. President. I would too, echo my thanks and appreciation for your  
41 efforts. I know it's been a long period however we want to begin to quantify it from. I  
42 would echo the sentiments that Ms. Floreen had raised a notion of trying to figure out  
43 how we communicate better, and I think, Meredith, you raised this three months ago so  
44 that we're actually getting things addressed more quickly and then having the bigger  
45 conversation, because I think even what you're running into with hiring is stuff we





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1 should -- we need money to do that to get the bodies in, we ought to make that decision  
2 and move on, not languish over it for the next for or five months to get there from here.  
3 So I think that's important that we figure out how we do that. I honestly -- I raise the  
4 notion of trying to look at whether there are some ways to accelerate the term on the  
5 master plan only because there's already been some work done.

6  
7 Royce Hanson,  
8 Right.

9  
10 Councilmember Knapp,  
11 And so I sent a letter over for consideration, and I don't expect an answer today, but are  
12 there some thing there that we can look at, piggyback on the work that's already been  
13 done and come up with a way that -- and Mrs. Praisner has raised this, you know, shred  
14 is kind of the word of the day. And sometimes it's good, sometimes it's not. But to the  
15 extent that there are communities doing different things, there are ways for us to build  
16 upon that and take advantage of it. And I don't know -- so I look forward to hearing from  
17 you as you consider that. You had sent over -- and this gets to the priorities -- the -- I  
18 don't know -- this is always an interesting conversation because of the way we've had it.  
19 There are so many things to do because we do this once every six months that, you  
20 know, we've all got a list of things that we'd love to have you do, and I guess my biggest  
21 priority is keep getting things fixed. Figure out over the next course of the months what  
22 else need to get done so that when we kind of come out of the chute, once we've made  
23 transitions and the executive has made and has transitioned and that we're ready to do  
24 things, you know, it's kind of like the athlete that keeps trying to play injured and you  
25 never quite get there and you never quite operate at the level you should because you  
26 never take the time to actually get better. And so, you know, to try and keep running at  
27 a hundred percent when you know you can't so I'd rather have you guys continue to  
28 focus on -- and I don't know what that time periods is -- I look to you to kind of tell us at  
29 what point can we look at, is it January or is it February that you're trying to get to that  
30 we can start to say, okay, we're kind of turning that corner, now we're getting ready to  
31 move, because I think that's important. I think it's important for you to push back on us  
32 when we make ridiculous demands because you're still trying to get pieces fixed.

33  
34 Royce Hanson,  
35 You can count on that.

36  
37 Councilmember Knapp,  
38 Good. Kind of running through the lists of things in no particular order, you started out  
39 looking at parks, and I appreciate that. One of the things I would ask is as you've done  
40 your assessment, you now kind of know where all the pieces are and the question is, is  
41 that where the pieces should be? There's a notion that says we need more, and I don't  
42 disagree with that. But are we putting the focus in the right places in the first place? I  
43 think we had this discussion a little bit last year when we started looking at that from the  
44 planning perspective. Just because the numbers fit those boxes may not necessarily  
45 mean that's where those numbers ought to be. And so I would look to you to try and --





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1 now that we've got the assessment, tell us where should they be and where do we need  
2 additional pieces? So where do you need to reallocate? I don't know if you've done  
3 that yet or if you have started that process.

4  
5 Mary Bradford,

6 We have started it. We're looking at places, what I call holes in the organization or  
7 places we need to fix. We have a lot of really good people with a lot of good ideas in  
8 the parks department right now and they have been terrifically helpful in identifying  
9 those areas and have begun taking the baby steps towards --

10  
11 Councilmember Knapp,  
12 Good.

13  
14 Mary Bradford,

15 -- beginning in anticipation perhaps of the kind of funding we'll need in the FY '08 budget  
16 to really make it happen.

17  
18 Councilmember Knapp,

19 Okay. One of the other things that you said much of where your resources are going is  
20 for recreation and services. One of the things, and I know we're not supposed to put  
21 this out there. What the heck, let's do it anyway. We're probably not doing all that we  
22 should from your perspective, and I know that we've under funded our department of  
23 recreation from our perspective to begin to look at other synergies to leverage some  
24 combination of putting those pieces together. I think that that makes sense for us to  
25 consider, and I know that there's a lot of reasons why that has not happened in the past.  
26 But I don't know, I guess there's no reason why we shouldn't. I would rather try to help  
27 us figure out what those synergies are so we can leverage them. So as you're looking  
28 at that.

29  
30 Royce Hanson,

31 We are looking at that, and the department is working closely with recreation now.  
32 We're even publishing jointly now the guide to recreation and park programs and  
33 activities. But this seems to be me to be a very important topic as we look toward the  
34 future, and I think we'll be prepared to think through and work with the department  
35 recreation and with the new county executive and with the council to try to address this  
36 issue.

37  
38 Councilmember Knapp,

39 Okay. One of the things that -- and Mr. Silverman touched on this actually -- the notion  
40 of looking at fee-based payment for how we cover new staff. I know it was discussed,  
41 but we're actually exploring this and some regulations we're going to have to consider  
42 for fire and rescue in which they're looking at entire expansion on the basis of fees, and  
43 so they're actually going back and incorporating a cost-base model so that they know  
44 their hourly cost is X, and as they implement this that they have their cost base and so  
45 you're going to get people and you're going to get it paid for on the basis of what it's



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1 costing us to do the job. And there I think when they presented to us yesterday, there  
2 was only one other place that they found in the country that's actually -- that's doing  
3 that. And so it will give us some experience as to whether or not they can actually do --  
4 this model can really work, but it may be something we need to look at. The challenge  
5 of this is you have to be able to show the performance on the other side so that people  
6 can -- I'm getting what I'm paying for. And so It may be something for us to consider in  
7 the year -- the next couple years anyway as we get a little better sense there.

8  
9 Royce Hanson,  
10 I think that and any other means of funding programs is really -- and I'm just speaking  
11 here for myself not for the floor.

12  
13 Councilmember Knapp,  
14 Sure.

15  
16 Royce Hanson,  
17 But I think we want to be extremely cautious about that, particularly on the park side and  
18 probably on the planning side as well. There are two reasons for it: one is to ensure  
19 that services are made available to a full range of the population of the county and fee --  
20 park fees and things like that do limit access and that's something we want to be very  
21 much concerned about.

22  
23 Councilmember Knapp,  
24 No, I agree. I wasn't thinking so much on the parks side as on the actual development  
25 review.

26  
27 Royce Hanson,  
28 Well, on the planning side there's another problem, I thin with -- I think fees -- fee-based  
29 work on development review is justified. I think we want the take a close look at the  
30 proportion that is dependent upon fees for an important reason and that is that income  
31 from fees will fluctuate with the building cycle.

32  
33 Councilmember Knapp,  
34 Right.

35  
36 Royce Hanson,  
37 And you don't want a situation in which it's necessary to dismiss staff --

38  
39 Councilmember Knapp,  
40 Right.

41  
42 Royce Hanson,  
43 -- when the building cycle is low, because the fees aren't coming into support, because  
44 then the building cycle picks up again, you don't have any staff to handle the incoming  
45 work. Moreover, you lose the institutional memory --



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1  
2 Councilmember Knapp,  
3 Right.

4  
5 Royce Hanson,  
6 -- that is really important in the organization. So there needs to be some kind of base  
7 plus fee in these. In the master planning area I'm dubious of figuring out how one would  
8 produce a fee, unless we charged per minute of testimony or something of that nature.

9  
10 Councilmember Knapp,  
11 There's something to that.

12  
13 Royce Hanson,  
14 It might be a temptation, but I don't think we'd go there.

15  
16 Councilmember Knapp,  
17 No. And there may be places it fits and places it doesn't. But to be able to see, you  
18 know. Places where it may be appropriate to look at that. And then the only other piece  
19 is to continue to focus on the notion of implementation, which has obviously been a  
20 theme of everyone's conversation, and in one particular community as we continue to  
21 move down the road with Clarksburg, there tends to be a focus as we try to fix things  
22 and then as we move on, there tends to be a notion of, okay, we fixed it, and now I'm  
23 looking at something else.

24  
25 Royce Hanson,  
26 This is -- this is a very important issue. I think we need to think about planning as a  
27 seamless process, not plan and then implementation, because that's two separate kinds  
28 of operations. It's a continuous matter. Now, one of the problems that we need to do is  
29 look, for instance, at the way in which we provide infrastructure. We put a lot of  
30 emphasis on the adequacy of public facilities, for instance, and the use of infrastructure  
31 and services as a part of staging process for planning. Basically when we do a plan  
32 we're making a promise that says by certain period of time these kinds of facilities will  
33 be there. Some of them that we obtain by dedication or that, you know, if we say we're  
34 going to buy a park, we usually buy a park. If we say we're going to build a road, we  
35 often don't build a road. If we say we're going to build a school, we may build it  
36 somewhere else. So I think we really need to work with all of the public agencies that  
37 are involved both to make sure that they are comfortable with the promises that we're  
38 making in the plan.

39  
40 Councilmember Knapp,  
41 Right.

42  
43 Royce Hanson,  
44 And that they are prepared to follow to the best of our fiscal ability the production of the  
45 facilities that are necessary for good communities to result. We've got another aspect,



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1 and this goes back to the relationship between the park system and the development  
2 process. Our park system was developed on what I think everybody agrees was a kind  
3 of a suburban model. Much of that can still serve suburban communities. But we're  
4 getting increasingly high-density urbanized communities. But we still have this  
5 marvelous system of parks and open space in the county that to the extent they can be  
6 connected into the new urban development that we're producing. Both adds great value  
7 to those communities and offers ways of dealing with other parts of the problem, some  
8 of it being mobility.

9  
10 Councilmember Knapp,

11  
12 Uh-huh.

13  
14 Royce Hanson,

15 That -- we've got long trail systems, for instance, that now are used primarily for  
16 recreation. With proper connections they can become an important part of the mobility  
17 system of the county. So trying to build on the natural framework that we have is going  
18 to make the urban development that we produce much more attractive, much more  
19 adaptable to the kind of population that the county has and is going to have in the future  
20 and its needs.

21  
22 Councilmember Knapp,

23 No, I agree. And I appreciate your statement as to we need to come up with a way to  
24 link those pieces together better. Because one of the frustrations I've had -- and I say  
25 this and people probably roll their eyes -- but this kind of becomes the private sector  
26 perspective; that in, as we're delivering a product as a company, there was a unification  
27 across all departments to deliver that product, and we may have fought and had lots of  
28 ugly meetings all along the way, but at the end it, everyone stood behind that singular  
29 product. I see the master plan as that same type of process. It is a product that the  
30 community expects we're delivering. The problem is there's only one part of us that  
31 works with the community get to the division, and so there's no ownership along the way  
32 to actually deliver that product ultimately to the customer or the end user, who are our  
33 residents. And we've got to come up with some way to better link those pieces together  
34 because rightly or wrongly there is a perceived promise in that master plan, that we've  
35 got to come up with a way to inset the rest of government to help deliver. So probably a  
36 little too pie in the sky, but what can we do? I think we've got to continue to focus on it.  
37 So thank you very much, and look forward to some of these responses.

38  
39 Council President Leventhal,  
40 Mr. Andrews.

41  
42 Councilmember Andrews,

43 Thank you, Mr. President. Well, Royce, this must seem, as Yogi Berra said, like déjà vu  
44 all over again, except there are nine council members where there used to be seven, so  
45 you are seeing two more.



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1  
2 Royce Hanson,  
3 It's a broader vision.

4  
5 Councilmember Andrews,  
6 That's right.

7  
8 Or a more complicated world.

9  
10 Councilmember Andrews,  
11 Yeah, much, much more. Well, the last time you were chair of the planning board there  
12 was no Ag reserve.

13  
14 Royce Hanson,  
15 Well there was by the time -- by the end.

16  
17 Councilmember Andrews,  
18 By the end. By the end. But 30 years ago in this place just at the very end, you're right.  
19 And we had about three to four hundred thousand less people in the county at the time  
20 and a few acres of parks, fewer cars. The world has changed a lot. Not everything has  
21 changed. You're back, and when you were here the first time, Donald Rumsfeld was  
22 secretary of defense that first time as well. Your second tour is going to be better.

23  
24 Royce Hanson,  
25 But he's younger than me.

26  
27 Councilmember Praisner  
28 No, He's aging quickly.

29  
30 Councilmember Andrews,  
31 Your second tour will be better.

32  
33 Not fast enough.

34  
35 Councilmember Andrews,  
36 But I want to go from the general to the specific. The county -- each year the county is  
37 adding on average about 14,000 people, and over a four-year period that population of  
38 Montgomery County is equivalent to adding a population the size of the city of Rockville  
39 and Gaithersburg. So that's a major strain on the county's infrastructure. There's  
40 certainly a big challenge to keep up with. And it seems to me essential that there be  
41 coordination between the county planning efforts and the municipal planning efforts,  
42 particularly Rockville and Gaithersburg since they're by far the largest municipalities.  
43 Last November Rockville adopted adequate public facilities for the first time, which is  
44 stronger in some respects, particularly in the county schools test, which looks at actual  
45 usage rather than a set number of students assumed per class. Gaithersburg had a



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1 public hearing last night on draft public facilities ordinance that would. There record is  
2 open until October 20 -- the planning commission's record is open October 25th. And  
3 I'd ask if the planning board has had a chance to weigh in at this point, but if you  
4 haven't, I certainly urge you to weigh in on the draft proposal and submit thought about  
5 what is being considered in the city, because I hope that at the end within -- by the end  
6 of the Gaithersburg deals with this, and they're expected to deal with sometime in  
7 November, and by the time the county deals with this next year that Rockville,  
8 Gaithersburg, and the county will be much closer than they are now in terms of growth  
9 policies. Because so much of what the county does and so much of what Rockville  
10 does and so much of what Gaithersburg does affect the other governments and the  
11 people in the counties and the cities for better or worse. So has the planning board had  
12 a chance to submit testimony or comments on --

13  
14 Royce Hanson,  
15 We have not thus far, no.

16  
17 Councilmember Andrews,  
18 Okay

19  
20 Royce Hanson,  
21 We have incidentally however had a very fruitful meeting with the mayors, managers,  
22 and planning directors of Rockville and Gaithersburg. And they are cooperating with us  
23 in the 355 corridor study and -- because it's really important that we all end up pretty  
24 much on the same page in that study if we're going to make the mainstream of the  
25 county one that is really in a great place.

26  
27 Councilmember, Andrews,  
28 Right. Does the planning board intend to comment on the draft adequate public  
29 facilities ordinance that Gaithersburg is considering?

30  
31 Royce Hanson,  
32 I would expect we may weigh in on that at some point, yes, sir.

33  
34 Councilmember Andrews,  
35 Okay. I think that's important, the planning commission record is just two-and-a-half  
36 weeks away and then the city council's record closes November 2nd it appears.

37  
38 Royce Hanson,  
39 Among other things that we talked to the mayors about incidentally is the possibility of  
40 the cities being willing to receive some TDRs, and I think they are at least open to that  
41 discussion.

42  
43 Councilmember Andrews,  
44 Good. Good. All right. Well, so that was my first question was that subject, because I  
45 think the -- there's more coordination than there was in the past, and actually I see a





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1 convergence among Rockville, Gaithersburg, and the county in the direction that all  
2 three are moving, and I think that's good in the direction of tighter controls and growth.  
3 The second question is, can the planning board get what it needs to get done with the  
4 current amount of time or expectations expected of the planning board members?  
5 You're the only full-time member of the planning board. You have a big job. The board  
6 has a big job. Montgomery County is bigger than a number of states in population. A  
7 lot of activity in all these areas that you've talked about. Do we need to look at a  
8 change there?  
9

10 Royce Hanson,

11 There may be a need -- I'll let my two colleagues comment on this. They've got more  
12 experience at this in the current environment than I. It may be that it will be important to  
13 increase the compensation of board members, and also I think as you appoint new  
14 board members, one of the things that I think it is important to look at is time available  
15 for additional meetings, because we're basically putting in 10 to 12 hours on Thursdays,  
16 plus, maybe 10 to 15 hours just reading the material that has to come before the board  
17 so that the board members are prepared to deal with it. If we're going to move on as  
18 many fronts as we need to move to keep up with things, I still believe as I told you back  
19 in January that I think it is important that many of these meetings be managed by board  
20 members, both so that there's somebody there who can bring back to the board a board  
21 member sense of what has occurred and as a means of freeing the staff to be  
22 independent in their judgments rather than to have to reconcile different points of view.  
23 Because I think the planning process particularly is best advanced when we get a very  
24 rigorous independent professional perspective from the staff, as well at the point of view  
25 of the property owners and the residents of an area. Then it becomes the board's job to  
26 try to put all of those things together. But Meredith or John may have some comments  
27 that they'd like to make on this too.  
28

29 John Robinson,

30 Well I'll go first if it's all right with Meredith. I agree with the chairman's observation that  
31 the normal day at the planning board has to be planned on Thursday to be  
32 approximately 8:00 o'clock to 10:00 so people have to start with that commitment. The  
33 time for preparation outside the board, it varies on the nature of the cases. It's like any.  
34 And I think current board members do view this as a practice the way any professional  
35 would view it, so the cases vary. Sometimes they're very complicated, it takes more  
36 time. Sometimes there are a lot of things that are relatively routine, just want to make  
37 sure that you understand it. The standard prep time is six to eight hours depending on  
38 the complexity of the packet. Now, for reasons that the council can appreciate, the time  
39 commitment's been a little more severe the last 15 or 16 months, particularly because of  
40 the enforcement problems. It's beginning to lighten up so -- but I agree with the  
41 chairman, I think we're looking toward future board members. I don't think a full time --  
42 five full full-time board members is appropriate because you have a hard time having a  
43 citizens planning board with a broad range of candidates if you do that, because many  
44 people have full-time jobs. But I think that people that want to serve on the planning  
45 board should appreciate that it's very probable that there's going to be one evening

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1 meeting a week in addition to the Thursday session. There's some tension within the  
2 board on that right now. But I think that given the matters that we've talked about here  
3 particularly the combination of administrative matters that we have to work on, it's clear  
4 that the board has to be more involved, not to micromanage, but to fully appreciate  
5 what's going on in the managerial level, that was made abundantly clear last year; that  
6 very often there's going to be an additional evening that starts around 7:00 o'clock and  
7 runs till 10:30 or 11:00; probably a Tuesday night because that tends to fit into people's  
8 schedules.

9  
10 Meredith Wellington,

11 I think it's a really interesting question. I don't think, at least for this board member that I  
12 have the answer yet. I think this is something you all need to keep an eye on and keep  
13 learning about just as you've been learning about how much time the council member  
14 take, you know, what kind of job that should be in the very large county with a lot of  
15 people. The job is clearly changing. It's changed since I first came on. It's changed in  
16 the last two years. We've already implemented new rules for regulatory hearings, and  
17 we're in the process of implementing even more rules. And those rules make the  
18 hearings longer. Each item takes more time because there's more transparency. We're  
19 doing the people's business in public, and that's great. But it can mean that when we  
20 talk about the 12-hour day, that's entirely regulatory. So the question is, when does the  
21 board have time -- or let's be honest, energy and enough resources left to have a good  
22 discussion about non-regulatory matters, which is virtually every park matter and 80  
23 percent of our budget? So I don't have the answer to that question right now, but, you  
24 know, certainly one way is saying, yes, you also need an extra evening, that would help  
25 a lot, because that could help us deal with the non-regulatory matters at a minimum.  
26 But I think in addition into looking at just the amount of time, you kind of have to take a  
27 look at the nature of the job. Because what the chairman was saying that he would like  
28 to see board members presiding over other meeting, that is something that has not  
29 been given all the workload and what I call the three feet of stuff we get each week. I  
30 just measure it. I don't weigh it. But I don't have time to weigh it. Do you weight your  
31 things? That's one issue, but then taking a further step of actually going around and  
32 having enough time to go to a lot of extra meetings, that would be adding onto the job.  
33 But it may be the kind of help that even the chair needs. The chair's job is also  
34 extremely time-consuming and of very great significant to this county. From the very  
35 beginning of any project, from the beginning of master plans, from regulatory items, it  
36 runs the gammit. So that's the short answer.

37  
38 Councilmember Andrews,

39 Okay. Well I appreciate the responses. And I think those responses will be very  
40 important for the council to keep in mind as we interview -- as the next council  
41 interviews applicants for vacancies on the planning board as they come up during the  
42 next four years. Because if it really is essential to have people available for not just a  
43 full day Thursday and an evening but another evening of the week, that's very important  
44 to be able to find out from the applicants when they come in in order to -- and for it will





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1 be advertised that way as well, because that will be a difference in expectation in the  
2 past. That will be important to communicate to applicants.

3  
4 John Robinson,

5 If I might as long as we're on the point that you touched briefly not only on the time but  
6 there's some tension in terms of how you would look at future planning board members.  
7 I said about more involvement of the board and administrative matters that's important.  
8 What the chairman is suggesting in terms of board members being actively involved in  
9 meetings, part of the tension that arises is this is very technical work, you know, so you  
10 have a problem, you have three levels of -- you have at least two levels of issues that  
11 you have to look at; the time commitment and the tension between the broadest  
12 possible pool of applicants from the citizens' involvement representing different areas  
13 and interest in the county, which is critical, but also some reasonable background in the  
14 matters that the board deals with, because it takes -- even if you have a background in  
15 the work of the board, been an activist or you've been involved in board procedures say  
16 from the business side of the community, it's a full year to learn everything that really  
17 goes on in the day-to-day operation in the board and that assumes a reasonably  
18 proficient background in the matters that we deal with. So there are a lot of things that  
19 have to be kept in mind of where you go in the future.

20  
21 Councilmember Andrews,

22 Well, thank you for the response. I thank you for your dedicated service to the people of  
23 Montgomery County, and it will be a challenge to find people to continue who have the  
24 same knowledge, ability, and time to put in as you have.

25  
26 Royce Hanson,

27 There's one other thing that I had mentioned in that regard that I think is important as  
28 we began. As you know, Meredith and Wendy Perdue will both be ending their service  
29 on the board this next year, so you've got two appointments coming up. Commissioner  
30 Bryant will be term limited and not eligible for appointment the following year, and then  
31 John, the year after that. I think it -- I hope that the board will think also as it makes  
32 these appointments about succession so that you have always on the board at least  
33 one person who is at least a potential chair, you know, no guarantees but somebody  
34 who could take over, you know, on the bus hits the chairman scenario or on succession.  
35 This leads me to suggest to you that both the board and commission have in our  
36 legislative program a measure that would allow a person who had served on the board  
37 to be appointed chair and for the clock on term limits to start over for the person at that  
38 time, because it would be extremely valuable, I think. As John says, to come into the  
39 job of chairmanship cold is extremely difficult. It's not impossible. There are a lot of  
40 people who can do it, but you ought to really have the possibility of taking the benefit of  
41 a person who's got some experience, a year or two or maybe seven years or so on the  
42 board, of being able to become chair and serve a full eight years, two terms if council  
43 chooses.

44  
45 Council President Leventhal,



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1 I'm going to call on Mrs. Praisner in just a minute. My quick observation on that, Mr.  
2 Chairman, you know, there's a problem with that excellent suggestion, and we certainly  
3 went through this difficulty with a happy ending insofar as you agreed to take the  
4 position. But the general assembly as you know would have to enact that change.

5  
6 Royce Hanson,  
7 That's right.

8  
9 Council President Leventhal,  
10 There would be no sense of urgency for the general assembly to enact it until such time  
11 it became impossible for the general assembly to enact it, because it would be  
12 interpreted as so political and personality driven that it couldn't get done. It's a catch-  
13 22, you know. I mean I don't know how to resolve it. We can discuss it, and we will with  
14 our officer of inter-governmental affairs. But it would be a bill without a constituency  
15 until such time it became so urgent to do that it couldn't get done.

16  
17 Royce Hanson,  
18 Well, I hope we can get it done. In the meantime I'll try to stay out of the way of buses.

19  
20 Council President Leventhal,  
21 Yeah, please don't near any buses. Mrs. Praisner.

22  
23 Council Vice President Praisner,  
24 Have a taste tester too, and don't eat any spinach, right.

25  
26 Council President Leventhal,  
27 Lettuce now, lettuce is the problem.

28  
29 Council Vice President Praisner,  
30 Lettuce, spinach -- avoid green leafy vegetables at all cost, or have them, as we used to  
31 do in Bangkok, washed in Clorox before you eat it.

32  
33 Royce Hanson,  
34 Sounds really good.

35  
36 Council Vice President Praisner,  
37 It isn't, believe me. I have a couple of questions and comments. But before I go to that,  
38 I want to compliment everyone who was associated with the work that's been done on  
39 the parks' budget, on program budgeting and on trying to work towards these goals. It's  
40 obviously a work in progress. And you need to assign the dollars with the work years  
41 and tell us how many are filled and how many are vacant. And as you said, Mary, you  
42 can rearrange this information in a variety of ways. Present it in a variety of ways both  
43 for our analysis, your management, and our budgetary process. So -- but I think it  
44 speaks to some of the things that Marlene has been urging in the past and that the  
45 PHED committee has been urging in the past and as well, the management of fiscal



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1 policy committee when we talk about program budgets and looking more at trying to  
2 refine the aggregate number of personnel and the myriad of activities that a government  
3 agency or department may be doing, but we don't have a general sense of how much is  
4 being spent or how much time is being spent on what. So I am very excited about the  
5 work that's been done. I know it isn't easy to get there. I wonder the extent to which the  
6 technology supported the capacity for you to do this or hindered the capacity for you to  
7 do this, especially since we had this conversation yesterday -- yesterday in MFP with  
8 OMB as it relates to our whole personnel and budget systems as we buy new ones or  
9 plan to buy new ones and the difficulty of both monitoring and in cutting checks, so to  
10 speak. So I wonder to the extent your challenges related to technology and if you had  
11 any comments on the issue.

12  
13 Mary Bradford,

14 We don't really have any comments on that. We've got good technological support as  
15 we went through it. I will say that, you know, the best computers are in people's heads,  
16 and getting managers in the room and people who knew how the operations were going  
17 so that they could say we're doing about this much here and about this much here and  
18 refining it down that way. At this point it was as much a manual system as a  
19 technological system. There's really no substitute for a manager knowing right on  
20 program.

21  
22 Council Vice President Praisner,  
23 But in the end, the long-haul, it's the ability to know how many dollars are associated  
24 with each of these functions.

25  
26 Mary Bradford,  
27 Yes.

28  
29 Council Vice President Praisner,  
30 How many work years are associated, how many are filled, how many are vacant, and  
31 what the workload may be. If it's external workload as opposed to a self-developed  
32 workload will help us to make significant judgments. Will also help us when we look at  
33 capital budget projects to be able to put in the operating costs associated more and  
34 really understand it and then predict that into our fiscal plan when we know we have a  
35 CIP item coming up on the board.

36  
37 Mary Bradford,  
38 I think it will help us enormously as we get into predicted measurements. Right now  
39 we're are just inputting raw data based on the experiences, but as we get more refined  
40 in the system, obviously that's how you're going to be able to project your predictions,  
41 figure out what the operating impacts are.

42  
43 Council Vice President Praisner,  
44 Absolutely. And I just wanted to tell you how excited I was. This is not watching a  
45 council session or anything else, but it didn't put me to sleep to all. I think it's very



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1 helpful and exciting to see this kind of progress. Good sign. What I wasn't sure about  
2 was I thought we had seen that last time to some extent on the planning side, and we  
3 didn't get it in this packet on planning, and I wondered why not.

4  
5 Farroll Hamer,

6 You didn't get it because what happened last time is the -- we presented it you in June,  
7 and it was really sort of backwards because you had already -- it was for the '07 budget  
8 year, which you actually had already approved our budget. So what we were doing  
9 was going back and saying, okay, now you approved the dollars, and by the way, here's  
10 the work program that goes with this.

11  
12 Council Vice President Praisner,  
13 Okay.

14  
15 Farroll Hamer,

16 So now we did is developed the planning part of it. And when see our budget in '08, it  
17 will be that. It will be the same work program format. So you're going to see it very  
18 soon.

19  
20 Council Vice President Praisner,  
21 But my assumption then is that this is the last time we will see these kinds of documents  
22 only for one piece of the commission?

23  
24 Royce Hanson,  
25 That's correct.

26  
27 Farroll Hamer,  
28 Yes, yes.

29  
30 Mary Bradford,  
31 And I think if you put -- I think if you put them together, you have the snapshot of the FY  
32 '07 budget and what we're doing.

33  
34 Council Vice President Praisner,  
35 Right.

36  
37 Mary Bradford,  
38 That was the goal up here. It was just --

39  
40 Council Vice President Praisner,  
41 So it's -- nothing has changed so to speak, and that's why you don't have a new  
42 document because we got it after the budget.

43  
44 Mary Bradford,  
45 Right. It came in a little later.



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1  
2 Council Vice President Praisner,  
3 Does that mean that we still will have four work years associated with centers and  
4 boulevards?

5  
6 Farroll Hamer,  
7 In '07, yes.

8  
9 Councilmember Praisner

10 In '07. Okay. There -- I understand and appreciate that some of my colleagues have  
11 communicated a desire to have some possible modifications to the work plan. With due  
12 respect to my colleagues, I think those discussions and determinations need to be  
13 made here so we all understand. That said, there are some things that aren't here  
14 because of the lack of that piece or my understanding, and they aren't full-blown master  
15 plans per se. They are ongoing initiatives that we talked about last time on smaller  
16 areas, like the impacts of BRAC, the white oak, Bethesda impact, Burtonsville work, the  
17 Glenmont work, the Sandy Spring work that I'm assuming are on schedule as the -- and  
18 John is behind you, Farroll, nodding yes, so you better not say no.

19  
20 Farroll Hamer,  
21 Thank you.

22  
23 Council Vice President Praisner,  
24 You need a rear-view mirror while you're sitting there just to make sure no one  
25 contradicts you. That's fine. I'm happy to hear that. But I do think in the future what we  
26 need to know is in the broader issues, but obviously in the planning areas where there  
27 are smaller initiatives, and they are obviously issues of high import to council members  
28 and also to the community to know that if there's a change or if things are continuing  
29 that we acknowledge that continuation.

30  
31 Farroll Hamer,  
32 I think we've talked about coming up with a series of quarterly reports that would help  
33 you. And I think the staff needs to provide those to the board actually, and also to the  
34 council members to keep them up to date on exactly the kinds of projects you're talking  
35 about.

36  
37 Council Vice President Praisner,  
38 Great. I think, Royce, some of the things you indicated of things that may have  
39 changed since you were there before or a more active, aggressive council and a more  
40 engaged council perhaps complimenting or not criticism, the issue of zoning text  
41 amendments --

42  
43 Royce Hanson,  
44 You remember the first council I worked for had Neal Potter, Betty Skull, Ida Mae  
45 Garrett.



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1  
2 Council Vice President Praisner,  
3 They were definitely engaged.

4  
5 Royce Hanson,  
6 They were engaged.

7  
8 Council Vice President Praisner,  
9 But there has been from a standpoint of zoning text amendments, a variety of other  
10 activities.

11  
12 Royce Hanson,  
13 Right.

14  
15 Council Vice President Praisner,  
16 It's this issue that I still don't think we've gotten a handle on, which is the world between  
17 a comprehensive full-blown master plan and zoning text amendments for individual  
18 interests, and the massaging of things that need to be coaxed along somewhere in the  
19 middle that are not as big as a breadbox, or maybe they're as small as a breadbox, not  
20 as big as a master plan, and how we manage those activities that do not lead to a  
21 myriad of zoning text amendments but allow us to look at whether there's something  
22 regulatory that inhibits our capacity to achieve what we want or something that is  
23 nongovernmental, not that everything has a finger pointed at the planning board rules  
24 impede the progress. But I do think we have to find some ways of addressing that  
25 issue. And I'm not sure it falls under the centers and boulevards.

26  
27 Royce Hanson,  
28 No, probably not. But I think what we have to recognize is that we're going to be in a  
29 period of transitioning from some old ways of doing business with a zoning code, for  
30 instance, that is really desperately out of date. I've talked to people at several law firms  
31 and chided them that right now the zoning ordinance is a lawyer's relief act.

32  
33 Council Vice President Praisner,  
34 Exactly.

35  
36 Royce Hanson,  
37 It produces enormous numbers of billable hours.

38  
39 Councilmember Silverman  
40 Your point is?

41  
42 Royce Hanson,  
43 -- that it -- you really have to have help to understand it. I think as we move toward a  
44 more modern zoning ordinance for one thing, that we will find less need for the kind of  
45 specific text amendments that are now, you know, sort of the coin of the realm to deal





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1 with things. Because I believe if we move toward form-based codes and other  
2 approaches that we'll be able to address many of these issues way ahead of time and  
3 also provide better standards for development to occur. It can be both more diverse  
4 and better in form and effect if we do what a number of other jurisdictions have already  
5 done.

6  
7 Council Vice President Praisner,

8 Well, obviously I think the devil will be in the detail, but if we don't start working on the  
9 detail, it's still out there creating this relief for lawyers or whatever else you might call it.  
10 So I think it's important for us to see. And I have the sense from both our conversations  
11 and your conversations today that it will appear in the work plan. I think the question is  
12 without speed being our -- the god that we worship at, I really think we need to look at  
13 how we move aggressively as I guess the point that I would make on some of these  
14 issues. I think that your comments about the fact that penalty or forgiveness is easier  
15 than following the rules, which is basically what you said as it relates minor  
16 amendments does raise some things that the next council and you will have to work  
17 through and some suggestions to the modifications to the procedures you have in place  
18 or some of the issues would be helpful. Right now, where do the fines go as far as your  
19 accounting basis? What do they get -- do they get put into your general fund, and do  
20 they get assigned from a budgetary perspective? Here comes Rose.

21  
22 Rose Krasnow,

23 Actually, we've changed direction a little bit with respect to fines in that originally we  
24 really were directing when we were talking about enforcement issues that all the fines  
25 are going back to the community which suffered whatever damages it suffered. We had  
26 changed that a little bit in that now we're requiring more things to be done to that  
27 community in terms of providing additional ball field or gathering places, et cetera, and  
28 we're directing part of the fines actually to park and planning to cover all the time and  
29 costs that we have directed toward it. We do have a separate fund. Every check that  
30 we get goes into the --

31  
32 Council Vice President Praisner,

33 Goes into the separate fund, and then there's an accounting on the fund. I think that's a  
34 good balance personally, because obviously there is harm, perhaps remediation that  
35 can be done, but there are also costs associated with staff work -- associated with that  
36 that shouldn't -- the taxpayer shouldn't -- the general taxpayer shouldn't have to pick up  
37 from that perspective, so the accounting will be very helpful. I was a little troubled  
38 though as you look -- as you separated out park from -- parks from planning, of some  
39 reference within the packet, and I don't want to take the time. I think my colleagues  
40 have had a long day, and all of you have long days as well. But I'm a little concerned by  
41 the assumption that we're creating separate human resources and budget coordination  
42 in parks from planning from central park and planning. And I need, through Marlene,  
43 who is nodding aggressively, a more detailed understanding of what you have in human  
44 resources in parks that's different from what you have in planning or the same  
45 comparable positions and how that differs or fits with what is central commission





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1 functions. And there may be some rationale for some monitoring at a department level,  
2 which you can equate parks to or planning to as it relates to county government where  
3 we also have a human resources office and an office of management an budget, but  
4 there is some personnel who have to manage the budget of the department internally  
5 and perhaps some personnel costs, but I'm a little concerned a out our creating multiple  
6 functions -- the same functions in multiple places within the agency. I could see maybe  
7 some assignment or extra funding from the county to do an aggressive recruitment  
8 initiative, but I don't know that that is ongoing and needs to be duplicated in both sides.  
9 So I don't want to take the time to discuss that, but I do think I need a better  
10 understanding, and I have a feeling Marlene does as well --

11  
12 Royce Hanson,  
13 We'll be happy --

14  
15 Councilmember Praisner  
16 -- about the separation of those things.

17  
18 Royce Hanson,  
19 -- to provide you some information on that just briefly. It's my perception that in terms of  
20 the kind of administrative assistance that the department needs, we're, if anything,  
21 understaffed to get the work done that needs to be done with regard to budgeting. And  
22 much of that we don't have the resources either at the commission level, I think, to do  
23 the whole job, nor do I think it's a good idea for the bi-county offices to handle this for  
24 the respective departments.

25  
26 Council Vice President Praisner,  
27 Well, it may not be a good idea of the central commission to handle it, but the question  
28 then is, should it be at the chairman's office level and not individually separate in parks  
29 from planning separately. Those are the kinds of questions, I think, we need to have  
30 broader discussion. Is it an overall administrative support that is both of the commission  
31 level for some function at our Montgomery County section for some function and then  
32 what is the appropriate level of administrative personnel within parks versus  
33 administrative personnel, meaning support function within planning. I think that's  
34 something we need to work on. I would also urge you as we move with whomever here  
35 as new council members that we have an opportunity to talk about since you're here  
36 new, again, so to speak, as Yogi might say, before we take a -- meet -- go to a fork in  
37 the road and take it, we should know, as Yogi would say, what suggestions you may  
38 have about our taking -- meeting that fork, whether it is the new council's procedures for  
39 how you would like to interact with the PHED committee with the full council, and that's  
40 more a personal day-to-day chairmanship issue as opposed to the full commission. But  
41 you've had some time. You're going to have a new council. We're going to have an  
42 opportunity of folks who obviously need to be briefed on a variety of things but also if  
43 there are some suggestions you have for procedures and the way to operate, I think  
44 would be helpful. I had just one question that comes out of recent activity or a  
45 suggestion about some things. And it relates to something that is, I guess, a



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1 hobbyhorse that I've been on for some time now, and it is not exclusively a park and  
2 planning issue. It's a government issue on the whole. And it speaks to communication  
3 and understanding of our expectations versus a department's expectations. We had  
4 this brief kind of conversation the other day as it relates to another agency of  
5 government, and I call it "no surprises." I also call it "tell us when you think there are  
6 things that are in issue rather than having us read about it or learn about it later." I'd  
7 also suggest that when the council has made a determination on certain things, there is  
8 an expectation that the agencies are following through. If you're not, it would be helpful  
9 for us to find that out sooner rather than later. To that end, I'm not sure I understand  
10 that this point what the planning board's position is on zoning of park land. Do you  
11 believe that park land is zoned?

12  
13 Royce Hanson,

14 Park land is zoned, but like other agencies, the parks are not required to follow zoning  
15 ordinances just as the state park system or other parks are. Our position has always  
16 been that we will conform to the zone. The development in a park has to be approved  
17 essentially by the council or any kind of CIP element. So the -- you know, park land is  
18 acquired for different purposes. It's acquired for passive open space or passive uses or  
19 low intensity uses such as trails or nature protection, or it may be acquired for active  
20 use. And if it's acquired for active use it also will then have to have CIP element to it so  
21 that those active uses are approved, whether it's fields or buildings or something else.

22  
23 Council Vice President Praisner,

24 I guess the concern that I -- I have several concerns. One concern that I have is if the  
25 planning board is going to sit there, and if we as a agency are going to, as a council, are  
26 going to hope that the planning board will be strong in its mandatory referral reviews or  
27 any of reviews with an expectation that other agencies will follow the laws that we've  
28 passed, and then I think it is incumbent upon park and planning to itself, abide by those  
29 same kinds of rules and procedures.

30  
31 Royce Hanson,

32 Well, I expect that we do.

33  
34 Council Vice President Praisner,

35 Well, I'm not sure that you do, and so I think we should pursue this further. But let me  
36 just say that I think we have some work to do in the area of communication and  
37 coordination when it comes to zoning ordinances and when it comes to expectations the  
38 council may have for the planning board to adhere to those regulations as well. So I  
39 hope we can pursue this more informally, as well as formally, but I do think it behoove  
40 us all to have these conversations before we have problems rather than after, so I look  
41 forward to working with all of you. Thank so much.

42  
43 Council President Leventhal,



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1 Okay. I just want to leave our friends on the planning board and the senior staff with a  
2 thought I've been developing for some time and I look forward to continued dialogue  
3 about it. Number one, Ms. Floreen stepped out for a moment.

4  
5 Council Vice President Praisner,  
6 No, she's over here.

7  
8 Council President Leventhal,  
9 Oh, hi.

10  
11 Council Vice President Praisner,  
12 She's playing audience. She's playing audience.

13  
14 Council President Leventhal,  
15 Yeah. No one would be more pleased than me to see a revision of zoning code in my  
16 lifetime; however, you know, I'm skeptical that it can be accomplished, but who knows.  
17 I mean hope rings eternal. We're optimists. That's why we run for office. It's become  
18 increasingly clear to me, and I'm going to say the motivating -- the thought that animates  
19 me here is the impending crisis of climate change. I heard a speech the other day that  
20 we have about ten years to turn this thing around, and that if we don't get a handle on  
21 our carbon emissions in the next ten years, it will be too late and we will see radical  
22 diminution in the quality of life for the human species. And it has become increasingly  
23 clear to me that one of the great culprits that we've got to address over the next ten  
24 years is Euclidian zoning. That we are suffering from decisions that were made in the  
25 '40s and '50s about what the suburbs should be like and what a nice quiet  
26 neighborhood should be like. And that we are stuck and trapped in a mode. You said  
27 it's outmoded. It's half a century outmoded. That says we should live on tree-lined  
28 street far from out places of employment and far from the places we buy our food and  
29 out clothing, and how we change our zoning to limit our need for combustion engines to  
30 get us our sustenance is one of the greatest challenges that you face. And it's not  
31 trivial. It's absolutely massive. It does relate to the continuance of life on this planet  
32 and the continuance of our shoreline, and the shape of our continent and, you know  
33 really, really dramatic things that we're going to need to do to drastically reduce our  
34 energy use and our energy consumption and our habits of living. And I don't know how  
35 we deal with it because we're not remaking Montgomery County from zero. The homes  
36 that are built are built. And people live in them, and the communities exist. And we  
37 aren't starting from zero. But Euclidian zoning is the culprit in much of what is creating  
38 this global crisis, and I just leave you with that thought. If anyone else wants to  
39 comment, feel free or if not we could just adjourn. Euclid, Illinois. Okay. Now with that,  
40 the council stands adjourned. Before we adjourn, let me just make a comment. There  
41 had been a proposal to take on a discussion of the Troutner Appeal. And I'm going to  
42 propose that we not do that at this time, because we don't have a quorum and we don't  
43 have the energy, so I'm going to suggest instead, and I've suggested this, that staff  
44 communicate with us on the matter in a confidential manner.



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1 Royce Hanson,  
2 You might recall that I think I spoke to you and the members of the PHED committee  
3 about this several weeks ago.  
4  
5 Council President Leventhal,  
6 Right. But I think we'll deal with it through memoranda and maybe -- poll a decision out  
7 of the council. So without objection, the council is adjourned.  
8